

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

<b>BILL #:</b> <a href="#">CS/CS/HB 147</a>	<b>COMPANION BILL:</b> <a href="#">CS/CS/SB 232</a> (Rodriguez)
<b>TITLE:</b> Prohibited Practices in Consumer Debt Collection	<b>LINKED BILLS:</b> None
<b>SPONSOR(S):</b> Gossett-Seidman	<b>RELATED BILLS:</b> None

**FINAL HOUSE FLOOR ACTION:** 116 Y's 0 N's **GOVERNOR'S ACTION:** Pending

### SUMMARY

#### Effect of the Bill:

The bill exempts email communications from the general prohibition on communications by a debt collector with a debtor between the hours of 9:00 p.m. and 8:00 a.m.

#### Fiscal or Economic Impact:

None.

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### ANALYSIS

#### EFFECT OF THE BILL:

CS/CS/HB 147 passed as CS/CS/SB 232.

The bill exempts email communications from the general prohibition on communications by a debt collector with a debtor between the hours of 9:00 p.m. and 8:00 a.m. All communications other than emails remain prohibited during these hours. (Section [1](#)).

The bill reenacts several existing provisions of the law for the purpose of incorporating changes made by the bill. (Sections [2](#), [3](#), [4](#), [5](#) and [6](#)).

Subject to the Governor's veto powers, the bill is effective upon becoming law.

### RELEVANT INFORMATION

#### SUBJECT OVERVIEW:

#### The Federal Fair Debt Collection Practices Act (FDCPA)

The FDCPA<sup>1</sup> became effective March 1978 to eliminate abusive, deceptive, and unfair debt collection practices.<sup>2</sup> Under the FDCPA, a debt collector may not communicate or attempt to communicate with a consumer about a debt at an unusual or inconvenient time unless the consumer provides prior consent or the communication is permitted by a court. In the absence of specific knowledge to the contrary, the law presumes that contacting a consumer before 8:00 a.m. or after 9:00 p.m. local time is inconvenient.<sup>3</sup> While email<sup>4</sup> and text communications<sup>5</sup> are permitted under the FDCPA, debt collectors must provide consumers with a reasonable and simple method to opt out of such communications.<sup>6</sup>

<sup>1</sup> 15 U.S.C. § 1692 et seq.

<sup>2</sup> The Fed. Rsrv., *Consumer Compliance Handbook*, available at <https://www.federalreserve.gov/boarddocs/supmanual/cch/fairdebt.pdf>, (last visited Mar. 18, 2025).

<sup>3</sup> 12 C.F.R. § 1006.6(b)(1)(i).

<sup>4</sup> 12 C.F.R. § 1006.6(d)(4).

<sup>5</sup> 12 C.F.R. § 1006.6(d)(5).

<sup>6</sup> 12 C.F.R. § 1006.6(d)(4)(ii)(4) and (d)(5)(i).

**STORAGE NAME:** h0147z

**DATE:** 5/1/2025

## **The Florida Consumer Collection Practices Act (FCCPA)**

The FCCPA<sup>7</sup> [prohibits certain practices by any person attempting to collect a debt](#).<sup>8</sup> It serves as Florida's counterpart to the FDCPA and aims to eliminate abusive and harassing debt collection tactics.<sup>9</sup> For example, under the FCCPA, a person collecting consumer debt<sup>10</sup> is prohibited from utilizing tactics such as using or threatening violence,<sup>11</sup> using profane or vulgar language,<sup>12</sup> or attempting to enforce an illegitimate debt.<sup>13</sup>

Additionally, among the list of prohibited practices, a person collecting consumer debt may not communicate with a debtor between 9 p.m. and 8 a.m. in the debtor's time zone without the debtor's prior consent.<sup>14</sup> However, the FCCPA does not specify the types of communication restricted during these hours. The law does provide two situations in which the presumed time of a telephone call may be calculated in reference to the time zone of the caller and the recipient, but because these situations only reference telephone calls and not all types of communications, it is unclear how or if the law applies to other types of communication.

## **Recent Litigation**

The U.S. District Court for the Southern District of Florida recently addressed the meaning of "communicate with" a consumer under the FCCPA.<sup>15</sup> In this case, the plaintiff sued a debt collector for sending an email at 8:23 p.m., which was delivered to her at 10:14 p.m. and remained unread until 11:44 a.m. the following day.<sup>16</sup> The plaintiff argued that this constituted a violation of the FCCPA, which prohibits communication with a debtor between 9 p.m. and 8 a.m.<sup>17</sup>

With no binding precedent on point, the court ruled that an email does not constitute communication "with" a consumer until the consumer either reads or at least receives the message.<sup>18</sup> Under this Court's interpretation, the debt collector did not "communicate" with the plaintiff until 11:44 a.m., when she actually read the email.<sup>19</sup> As a result, the court granted the defendant's motion for summary judgment.<sup>20</sup>

Since this case addressed a previously unresolved legal question, in the future Florida courts or other federal district courts may interpret the issue differently. Notably, the court's ruling diverges from the Consumer Financial Protection Bureau's interpretation under the FDCPA, which takes a broader view of what it means to "communicate with" a debtor.<sup>21</sup>

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<sup>7</sup>Ss. [559.55-559.785, F.S.](#)

<sup>8</sup> "Debt collector" means any person who uses any instrumentality of commerce within this state, whether initiated from within or outside this state, in any business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term "debt collector" includes any creditor who, in the process of collecting her or his own debts, uses any name other than her or his own which would indicate that a third person is collecting or attempting to collect such debts. S. [559.55\(7\), F.S.](#)

<sup>9</sup> The Consumer Prot. Law Comm. of the Florida Bar, *The Consumer Law Bench Book*, p. 46, available at <https://www.floridabar.org/about/cmtes/cmte-cm410/cplc-bench-manual/> (last visited Mar. 18, 2025).

<sup>10</sup> "Debt" or "consumer debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment. S. [559.55\(6\), F.S.](#)

<sup>11</sup> S. [559.72\(2\), F.S.](#)

<sup>12</sup> S. [559.72\(8\), F.S.](#)

<sup>13</sup> S. [559.72\(9\), F.S.](#)

<sup>14</sup> S. [559.72\(17\), F.S.](#)

<sup>15</sup> *Quinn-Davis v. TrueAccord Corp.*, Case No. 1:23-cv-23590-LEIBOWITZ/REID, 2024 WL 4851344, (S.D. Fla. Nov. 20, 2024).

<sup>16</sup> *Id.* at 1.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 6-7.

<sup>19</sup> *Id.* at 7.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 5. ("The CFPB interprets 'communicate with' under the FDCPA to mean that a debt collector communicates with a customer when the debt collector 'sends' an electronic communication.").