

By Senator Rodriguez

40-00388-25

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1 A bill to be entitled
2 An act relating to debt collection; amending s.
3 559.72, F.S.; revising prohibited practices for a
4 person attempting to collect consumer debt; making a
5 technical change; reenacting ss. 559.565(2),
6 559.725(2), 559.77(1) and (2), 648.44(1)(o), and
7 817.7001(2)(b), F.S., relating to enforcement action
8 against out-of-state consumer debt collector, consumer
9 complaints and administrative duties, civil remedies,
10 prohibitions and penalties, and definitions,
11 respectively, to incorporate the amendment made to s.
12 559.72, F.S., in references thereto; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 559.72, Florida Statutes, is amended to
18 read:

19 559.72 Prohibited practices generally.—Unless otherwise
20 authorized by law, in collecting consumer debts, a ~~no~~ person may
21 not shall:

22 (1) Simulate in any manner a law enforcement officer or a
23 representative of any governmental agency.

24 (2) Use or threaten force or violence.

25 (3) Tell a debtor who disputes a consumer debt that she or
26 he or any person employing her or him will disclose to another,
27 orally or in writing, directly or indirectly, information
28 affecting the debtor's reputation for credit worthiness without
29 also informing the debtor that the existence of the dispute will

40-00388-25

2025232__

30 also be disclosed as required by subsection (6).

31 (4) Communicate or threaten to communicate with a debtor's
32 employer before obtaining final judgment against the debtor,
33 unless the debtor gives her or his permission in writing to
34 contact her or his employer or acknowledges in writing the
35 existence of the debt after the debt has been placed for
36 collection. However, this does not prohibit a person from
37 telling the debtor that her or his employer will be contacted if
38 a final judgment is obtained.

39 (5) Disclose to a person other than the debtor or her or
40 his family information affecting the debtor's reputation,
41 whether or not for credit worthiness, with knowledge or reason
42 to know that the other person does not have a legitimate
43 business need for the information or that the information is
44 false.

45 (6) Disclose information concerning the existence of a debt
46 known to be reasonably disputed by the debtor without disclosing
47 that fact. If a disclosure is made before such dispute has been
48 asserted and written notice is received from the debtor that any
49 part of the debt is disputed, and if such dispute is reasonable,
50 the person who made the original disclosure must reveal upon the
51 request of the debtor within 30 days the details of the dispute
52 to each person to whom disclosure of the debt without notice of
53 the dispute was made within the preceding 90 days.

54 (7) Willfully communicate with the debtor or any member of
55 her or his family with such frequency as can reasonably be
56 expected to harass the debtor or her or his family, or willfully
57 engage in other conduct which can reasonably be expected to
58 abuse or harass the debtor or any member of her or his family.

40-00388-25

2025232__

59 (8) Use profane, obscene, vulgar, or willfully abusive
60 language in communicating with the debtor or any member of her
61 or his family.

62 (9) Claim, attempt, or threaten to enforce a debt when such
63 person knows that the debt is not legitimate, or assert the
64 existence of some other legal right when such person knows that
65 the right does not exist.

66 (10) Use a communication that simulates in any manner legal
67 or judicial process or that gives the appearance of being
68 authorized, issued, or approved by a government, governmental
69 agency, or attorney at law, when it is not.

70 (11) Communicate with a debtor under the guise of an
71 attorney by using the stationery of an attorney or forms or
72 instruments that only attorneys are authorized to prepare.

73 (12) Orally communicate with a debtor in a manner that
74 gives the false impression or appearance that such person is or
75 is associated with an attorney.

76 (13) Advertise or threaten to advertise for sale any debt
77 as a means to enforce payment except under court order or when
78 acting as an assignee for the benefit of a creditor.

79 (14) Publish or post, threaten to publish or post, or cause
80 to be published or posted before the general public individual
81 names or any list of names of debtors, commonly known as a
82 deadbeat list, for the purpose of enforcing or attempting to
83 enforce collection of consumer debts.

84 (15) Refuse to provide adequate identification of herself
85 or himself or her or his employer or other entity whom she or he
86 represents if requested to do so by a debtor from whom she or he
87 is collecting or attempting to collect a consumer debt.

40-00388-25

2025232__

88 (16) Mail any communication to a debtor in an envelope or
89 postcard with words typed, written, or printed on the outside of
90 the envelope or postcard calculated to embarrass the debtor. An
91 example of this would be an envelope addressed to "Deadbeat,
92 Jane Doe" or "Deadbeat, John Doe."

93 (17) Communicate with the debtor by telephone call between
94 the hours of 9 p.m. and 8 a.m. in the debtor's time zone without
95 the prior consent of the debtor.

96 (a) The person may presume that the time a telephone call
97 is received conforms to the local time zone assigned to the area
98 code of the number called, unless the person reasonably believes
99 that the debtor's telephone is located in a different time zone.

100 (b) If, such as with toll-free numbers, an area code is not
101 assigned to a specific geographic area, the person may presume
102 that the time a telephone call is received conforms to the local
103 time zone of the debtor's last known place of residence, unless
104 the person reasonably believes that the debtor's telephone is
105 located in a different time zone.

106 (18) Communicate with a debtor if the person knows that the
107 debtor is represented by an attorney with respect to such debt
108 and has knowledge of, or can readily ascertain, such attorney's
109 name and address, unless the debtor's attorney fails to respond
110 within 30 days to a communication from the person, unless the
111 debtor's attorney consents to a direct communication with the
112 debtor, or unless the debtor initiates the communication.

113 (19) Cause a debtor to be charged for communications by
114 concealing the true purpose of the communication, including
115 collect telephone calls and telegram fees.

116 Section 2. For the purpose of incorporating the amendment

40-00388-25

2025232__

117 made by this act to section 559.72, Florida Statutes, in a
118 reference thereto, subsection (2) of section 559.565, Florida
119 Statutes, is reenacted to read:

120 559.565 Enforcement action against out-of-state consumer
121 debt collector.—The remedies of this section are cumulative to
122 other sanctions and enforcement provisions of this part for any
123 violation by an out-of-state consumer debt collector, as defined
124 in s. 559.55(11).

125 (2) A person, whether or not exempt from registration under
126 this part, who violates s. 559.72 is subject to sanctions the
127 same as any other consumer debt collector, including imposition
128 of an administrative fine. The registration of a duly registered
129 out-of-state consumer debt collector is subject to revocation or
130 suspension in the same manner as the registration of any other
131 registrant under this part.

132 Section 3. For the purpose of incorporating the amendment
133 made by this act to section 559.72, Florida Statutes, in a
134 reference thereto, subsection (2) of section 559.725, Florida
135 Statutes, is reenacted to read:

136 559.725 Consumer complaints; administrative duties.—

137 (2) The office shall inform and furnish relevant
138 information to the appropriate regulatory body of the state or
139 the Federal Government, or The Florida Bar in the case of
140 attorneys, if a person has been named in a consumer complaint
141 pursuant to subsection (3) alleging violations of s. 559.72. The
142 Attorney General may take action against any person in violation
143 of this part.

144 Section 4. For the purpose of incorporating the amendment
145 made by this act to section 559.72, Florida Statutes, in

40-00388-25

2025232__

146 references thereto, subsections (1) and (2) of section 559.77,
147 Florida Statutes, are reenacted to read:

148 559.77 Civil remedies.—

149 (1) A debtor may bring a civil action against a person
150 violating the provisions of s. 559.72 in the county in which the
151 alleged violator resides or has his or her principal place of
152 business or in the county where the alleged violation occurred.

153 (2) Any person who fails to comply with any provision of s.
154 559.72 is liable for actual damages and for additional statutory
155 damages as the court may allow, but not exceeding \$1,000,
156 together with court costs and reasonable attorney's fees
157 incurred by the plaintiff. In determining the defendant's
158 liability for any additional statutory damages, the court shall
159 consider the nature of the defendant's noncompliance with s.
160 559.72, the frequency and persistence of the noncompliance, and
161 the extent to which the noncompliance was intentional. In a
162 class action lawsuit brought under this section, the court may
163 award additional statutory damages of up to \$1,000 for each
164 named plaintiff and an aggregate award of additional statutory
165 damages up to the lesser of \$500,000 or 1 percent of the
166 defendant's net worth for all remaining class members; however,
167 the aggregate award may not provide an individual class member
168 with additional statutory damages in excess of \$1,000. The court
169 may award punitive damages and may provide such equitable relief
170 as it deems necessary or proper, including enjoining the
171 defendant from further violations of this part. If the court
172 finds that the suit fails to raise a justiciable issue of law or
173 fact, the plaintiff is liable for court costs and reasonable
174 attorney's fees incurred by the defendant.

40-00388-25

2025232__

175 Section 5. For the purpose of incorporating the amendment
176 made by this act to section 559.72, Florida Statutes, in a
177 reference thereto, paragraph (o) of subsection (1) of section
178 648.44, Florida Statutes, is reenacted to read:

179 648.44 Prohibitions; penalty.—

180 (1) A bail bond agent or bail bond agency may not:

181 (o) Attempt to collect, through threat or coercion, amounts
182 due for the payment of any indebtedness related to the issuance
183 of a bail bond in violation of s. 559.72.

184 Section 6. For the purpose of incorporating the amendment
185 made by this act to section 559.72, Florida Statutes, in a
186 reference thereto, paragraph (b) of subsection (2) of section
187 817.7001, Florida Statutes, is reenacted to read:

188 817.7001 Definitions.—As used in this part:

189 (2)

190 (b) "Credit service organization" does not include:

191 1. Any person authorized to make loans or extensions of
192 credit under the laws of this state or the United States who is
193 subject to regulation and supervision by this state or the
194 United States or a lender approved by the United States
195 Secretary of Housing and Urban Development for participation in
196 any mortgage insurance program under the National Housing Act;

197 2. Any bank, savings bank, or savings and loan association
198 whose deposits or accounts are eligible for insurance by the
199 Federal Deposit Insurance Corporation or the Federal Savings and
200 Loan Insurance Corporation, or a subsidiary of such bank,
201 savings bank, or savings and loan association;

202 3. Any credit union, federal credit union, or out-of-state
203 credit union doing business in this state;

40-00388-25

2025232__

204 4. Any nonprofit organization exempt from taxation under s.
205 501(c)(3) of the Internal Revenue Code;

206 5. Any person licensed as a real estate broker by this
207 state if the person is acting within the course and scope of
208 that license;

209 6. Any person collecting consumer claims pursuant to s.
210 559.72;

211 7. Any person licensed to practice law in this state if the
212 person renders services within the course and scope of his or
213 her practice as an attorney and does not engage in the credit
214 service business on a regular and continuing basis;

215 8. Any broker-dealer registered with the Securities and
216 Exchange Commission or the Commodity Futures Trading Commission
217 if the broker-dealer is acting within the course and scope of
218 that regulation; or

219 9. Any consumer reporting agency as defined in the Federal
220 Fair Credit Reporting Act, 15 U.S.C. ss. 1681-1681t.

221 Section 7. This act shall take effect July 1, 2025.