

By Senator Rodriguez

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1                   A bill to be entitled  
2       An act relating to contacting consumer debtors;  
3       amending s. 559.565, F.S.; specifying that persons who  
4       violate specified provisions of law are subject to  
5       sanctions in the same manner as any other consumer  
6       debt collector; creating s. 559.721, F.S.; defining  
7       the term "creditor"; prohibiting creditors from  
8       contacting debtors regarding specified types of debt  
9       under certain circumstances; providing applicability;  
10      providing construction; amending s. 559.725, F.S.;  
11      requiring the Office of Financial Regulation of the  
12      Financial Services Commission to inform and furnish  
13      relevant information to the appropriate regulatory  
14      body of the state, the Federal Government, or The  
15      Florida Bar if a person has been named in a certain  
16      consumer complaint alleging specified violations of  
17      law; amending s. 559.77, F.S.; authorizing debtors to  
18      bring civil actions against creditors who violate the  
19      act; specifying that violators are liable for  
20      specified damages, costs, and fees; providing an  
21      effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25       Section 1. Subsection (2) of section 559.565, Florida  
26       Statutes, is amended to read:

27       559.565 Enforcement action against out-of-state consumer  
28       debt collector.—The remedies of this section are cumulative to  
29       other sanctions and enforcement provisions of this part for any

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30 violation by an out-of-state consumer debt collector, as defined  
31 in s. 559.55(11).

32 (2) A person, whether or not exempt from registration under  
33 this part, who violates s. 559.72 or s. 559.721 is subject to  
34 sanctions the same as any other consumer debt collector,  
35 including imposition of an administrative fine. The registration  
36 of a duly registered out-of-state consumer debt collector is  
37 subject to revocation or suspension in the same manner as the  
38 registration of any other registrant under this part.

39 Section 2. Section 559.721, Florida Statutes, is created to  
40 read:

41 559.721 Prohibitions on contacting debtors who are victims  
42 of certain crimes.—

43 (1) As used in this section, the term "creditor" means a  
44 person required to be registered under s. 559.553.

45 (2) In collecting consumer debts, a creditor may not:

46 (a) Contact a debtor regarding a debt that arises from  
47 documented elder and economic abuse.

48 1. Documented elder and economic abuse occurs when:

49 a. The debtor, or a person with fiduciary responsibility to  
50 the debtor, has alleged in a police report that the debtor has  
51 been the victim of elder abuse by a specified alleged  
52 perpetrator; and

53 b. The debtor, or a person with fiduciary responsibility to  
54 the debtor, provides the creditor with a signed affidavit,  
55 swearing under penalty of perjury that the following are true:

56 (I) The debtor was the victim of elder abuse as documented  
57 in a police report;

58 (II) As a result of the alleged abuse, the debtor was

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59 compelled to incur debt or was provided credit that the debtor  
60 would not otherwise have incurred in the absence of the abuse,  
61 including, but not limited to, the debtor's identity being  
62 stolen; and

63 (III) The debt that is the subject of the creditor's  
64 contact with the debtor was incurred solely because of elder  
65 abuse.

66 2. The prohibition in this paragraph applies:

67 a. For 2 years after the affidavit under sub-subparagraph  
68 1.b. is provided to the creditor; or

69 b. Indefinitely, if the perpetrator has been convicted of a  
70 crime relating to elder abuse arising from the conduct  
71 referenced in the police report.

72 (b) Contact a debtor regarding a debt that arises from  
73 documented human trafficking and economic abuse.

74 1. Documented human trafficking and economic abuse occur  
75 when:

76 a. Official documentation as defined in s. 943.0583 shows  
77 at least one incident of human trafficking has occurred in which  
78 the debtor is listed as a victim or in which the debtor received  
79 relocation assistance under s. 960.196; and

80 b. The debtor provides the creditor with a signed  
81 affidavit, swearing under penalty of perjury that the following  
82 are true:

83 (I) The debtor was the victim of human trafficking as  
84 documented in a police report or there has been a determination  
85 that the debtor should receive relocation assistance under s.  
86 960.196;

87 (II) As a result of human trafficking, the debtor was

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88 compelled to incur debt or was provided credit that the debtor  
89 would not otherwise have incurred in the absence of the abuse,  
90 including instances in which the debtor's identity has been  
91 stolen; and

92 (III) The debt that is the subject of the creditor's  
93 contact with the debtor was incurred solely because of and  
94 during the period of human trafficking.

95 2. The prohibition in this paragraph applies:

96 a. For 2 years after the affidavit under sub-subparagraph  
97 1.b. is provided to the creditor; or

98 b. Indefinitely, if the perpetrator has been convicted of a  
99 crime relating to human trafficking as alleged in the police  
100 report.

101 (c) Contact a debtor regarding debts that arise from  
102 documented identity theft. Documented identity theft occurs  
103 when:

104 1. The debtor provides the creditor with a Federal Trade  
105 Commission identity theft report stating that he or she is the  
106 victim of identity theft; and

107 2. The debtor provides the creditor with a signed  
108 affidavit, swearing that the following are true:

109 a. The debtor was the victim of identity theft as  
110 documented in a Federal Trade Commission identity theft report;

111 b. As a result of identity theft, the debt was incurred in  
112 the debtor's name but in no way benefited the debtor; and

113 c. The debt that is the subject of the creditor's contact  
114 with the debtor was incurred solely because of identity theft.

115 (d) Contact a debtor upon receiving notice that the debtor  
116 is protected by an injunction for protection against

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117 exploitation of a vulnerable adult under s. 825.1035.

118 (e) Contact a debtor regarding debts that arose when the  
119 debtor was in foster care. This prohibition applies after the  
120 debtor provides the creditor with a signed affidavit, swearing  
121 under penalty of perjury that the following are true:

122 1. The debtor was in foster care as defined in s. 39.01;  
123 and

124 2. The debt that is the subject of the creditor's contact  
125 with the debtor was incurred during the time when the debtor was  
126 in foster care.

127 (3) This section may not be construed or interpreted in any  
128 manner to discharge an individual from a debt he or she may have  
129 incurred as a result of a crime.

130 Section 3. Subsection (2) of section 559.725, Florida  
131 Statutes, is amended to read:

132 559.725 Consumer complaints; administrative duties.—

133 (2) The office shall inform and furnish relevant  
134 information to the appropriate regulatory body of the state or  
135 the Federal Government, or The Florida Bar in the case of  
136 attorneys, if a person has been named in a consumer complaint  
137 pursuant to subsection (3) alleging violations of s. 559.72 or  
138 s. 559.721. The Attorney General may take action against any  
139 person in violation of this part.

140 Section 4. Subsections (1) and (2) of section 559.77,  
141 Florida Statutes, are amended to read:

142 559.77 Civil remedies.—

143 (1) A debtor may bring a civil action against a person  
144 violating ~~the provisions of~~ s. 559.72 or s. 559.721 in the  
145 county in which the alleged violator resides or has his or her

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146 principal place of business or in the county where the alleged  
147 violation occurred.

148 (2) Any person who fails to comply with any provision of s.  
149 559.72 or s. 559.721 is liable for actual damages and for  
150 additional statutory damages as the court may allow, but not  
151 exceeding \$1,000, together with court costs and reasonable  
152 attorney ~~attorney's~~ fees incurred by the plaintiff. In  
153 determining the defendant's liability for any additional  
154 statutory damages, the court shall consider the nature of the  
155 defendant's noncompliance with s. 559.72 or s. 559.721, the  
156 frequency and persistence of the noncompliance, and the extent  
157 to which the noncompliance was intentional. In a class action  
158 lawsuit brought under this section, the court may award  
159 additional statutory damages of up to \$1,000 for each named  
160 plaintiff and an aggregate award of additional statutory damages  
161 up to the lesser of \$500,000 or 1 percent of the defendant's net  
162 worth for all remaining class members; however, the aggregate  
163 award may not provide an individual class member with additional  
164 statutory damages in excess of \$1,000. The court may award  
165 punitive damages and may provide such equitable relief as it  
166 deems necessary or proper, including enjoining the defendant  
167 from further violations of this part. If the court finds that  
168 the suit fails to raise a justiciable issue of law or fact, the  
169 plaintiff is liable for court costs and reasonable attorney  
170 ~~attorney's~~ fees incurred by the defendant.

171 Section 5. This act shall take effect July 1, 2023.