

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2430

SPONSOR: Banking and Insurance Committee and Senator Crist

SUBJECT: Commercial and Consumer Collection Agencies

DATE: March 18, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Bill 2430 substantially revises provisions of the Florida Commercial and Consumer Collection Practices Acts under the administrative and regulatory umbrella of the Office of Financial Regulation.<sup>1</sup> Specifically, the bill provides for the following:

- Grants the Office of Financial Regulation (office) broad administrative, regulatory, and enforcement authority over commercial and consumer collection agencies;
- Authorizes the office to do the following: issue subpoenas; administer oaths; obtain testimony; conduct investigations and examinations of applicants and registrants; issue cease and desist orders; seek injunctive and other forms of relief from courts; obtain attorneys fees and costs; seek restitution; and retain receivers to administer the property of collection agencies under specified circumstances;
- Authorizes broad powers for the office to deny applicants for commercial and consumer collection agency registrations and to revoke or suspend such registrations;
- Requires commercial and consumer collection agencies to maintain books and records for a 3 year period so that the office can determine compliance with the Act;
- Requires consumer collection agencies to obtain a \$50,000 surety bond;
- Increases application, annual renewal, and late fees from \$200 to \$800 for consumer collection agency applicants and registrants and similar fees for commercial collection agency applicants and registrants from \$500 to \$800;
- Increases administrative fines up to \$1,000 per violation;
- Increases the number of acts constituting criminal violations;
- Clarifies enforcement authority against out-of-state consumer debt collectors;

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<sup>1</sup> The Florida Commercial Collection Practices Act is under part V of ch. 559, F.S., (ss. 559.541-559.548, F.S.) and the Florida Consumer Collection Practices Act is under part VI of ch. 559, F.S., (ss. 559.55-559.785, F.S.).

- Provides that a violation of any provision of the federal Fair Debt Collection Practices Act, 15 U.S.C. s. 1692 et seq, also constitutes a violation of the consumer collection agency provisions of ch. 559, F.S.; and
- Provides for an appropriation of \$450,575, for fiscal year 2004-05 and authorization for seven FTE positions, from the Regulatory Trust Fund of the office.

This bill substantially amends the following sections of the Florida Statutes: 559.544, 559.545, 559.546, 559.55, 559.552, 559.553, 559.555, 559.565, 559.72, 559.725, 559.730, 559.77, and 559.785.

The bill creates the following sections of the Florida Statutes: 559.5471, 559.5473, 559.5474, 559.5475, 559.5476, 559.5477, 559.726, 559.7262, 559.7263, 559.7264, and 559.7265.

The bill repeals sections 559.544 and 599.563 of the Florida Statutes.

## II. Present Situation:

### Florida Commercial Collection Practices Act

In 1993, the legislature enacted part V of ch. 559, F.S., entitled the Florida Commercial Collection Practices Act (Act).<sup>2</sup> Under the law, a commercial claim is an obligation for the payment of money arising out of a transaction wherein credit has been offered to any person, and the money or service which was the subject of the transaction was primarily for commercial purposes and not for personal, family, or household purposes. A collection agency is defined as a person engaged in the business of soliciting commercial claims for collection asserted to be owed or due to another person, regardless of whether the collection efforts are directed at the primary debtor or some other source of payment.<sup>3</sup>

Under Florida law, a commercial collection agency must register with the Office of Financial Regulation (office) by submitting an application, paying a \$500 registration fee, and providing evidence that it has obtained a \$50,000 surety bond.<sup>4</sup> During 2003, 81 commercial collection agencies renewed their registration and 28 entities applied for agency registration. A commercial collection agency application requires the applicant to provide information including the applicants' business and trade names; the location of each office; identifying information as to owners and officers; the names of other businesses that any of the officers, directors or owners operated as a collection agency within the last 5 years; statements outlining any actions against any professional or occupational license held by the registrant that was the subject of suspension, revocation, or other disciplinary action; and statements outlining any finding of guilt of any crime involving moral turpitude or dishonest conduct on the part of any principal of the registrant. The law also provides that each of the following acts constitutes a felony of the third-degree: operating or soliciting a business as a commercial collection agency without first

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<sup>2</sup> Chapter 93-275, L.O.F.

<sup>3</sup> Section 559.543, F.S.

<sup>4</sup> Certain entities are exempt from the provisions of the Act including attorneys; financial institutions authorized to do business in this state; licensed real estate brokers; title insurance companies; collection agencies which are not primarily engaged in the collection of commercial claims; consumer finance companies; persons licensed under ch. 520, F.S. (retail installment sales); credit grantors; out of state collectors; and FDIC-insured institutions. (s. 559.544, F.S.)

registering with the office; and registering by means of fraud, misrepresentation, or concealment.<sup>5</sup>

According to representatives with the office, the current statute does not provide the office with the authority to enforce the commercial collection agency registration requirements in order to effectively regulate the industry. The office has no authority to take administrative actions (such as suspension or revocation of an agency's registration) against an agency for violations of the Act, e.g., failure to maintain a surety bond. The office also lacks authority to investigate such agencies, or to audit or examine their books and records.

### **Florida Consumer Collection Practices Act**

Part VI of ch. 559, F.S., is known as the Florida Consumer Collection Practices Act (Act).<sup>6</sup> The Act provides a series of measures designed to regulate consumer collection agencies and protect Florida citizens from certain debt collection practices that involve fraud, harassment, threats, and other activities. The provisions apply to debts of a consumer arising out of a transaction that is primarily for personal, household, or family purposes.

Consumer collection agencies must register with the office by submitting an application and paying a \$200 registration fee. Information required on the application includes submission of business and trade names; the location of the business; statements identifying information as to owners, officers, directors and resident agents; and statements identifying and explaining any occasion on which a professional or occupational license held by the registrant or principal was the subject of any suspension or revocation proceeding.<sup>7</sup> According to representatives with the office, 655 consumer collection agencies renewed their registration during 2003 and 314 entities applied for agency registration.

Section 559.72, F.S., outlines 19 prohibited practices as they relate to the collection of consumer debts which range from prohibitions against persons simulating a law enforcement officer or governmental agency to using threats of force or violence.<sup>8</sup> The Act allows a debtor to bring a civil action against a person violating the debt collection provisions under s. 559.72, F.S. Section 559.77, F.S., provides that upon adverse adjudication, the defendant is liable for actual damages and for additional statutory damages of up to \$1,000, together with court costs and attorney's fees. The statute also provides for punitive damages in the court's discretion and for equitable relief, including enjoining the defendant from further violations. Section 559.77, F.S., provides for reasonable attorney's fees and costs to be awarded to the defendant in the event the court finds the suit failed to raise a justiciable issue of law or fact.

Under s. 559.725, F.S., the office may investigate a consumer complaint only by written communication with the accused collection agency. When the office has been unable to resolve a

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<sup>5</sup> Part VI was enacted in 1993 (ch. 93-275, L.O.F.); s. 559.548, F.S.

<sup>6</sup> Under ss. 559.55-559.785, F.S.

<sup>7</sup> Section 559.555, F.S.

<sup>8</sup> The prohibited practices contained in the Act do not apply just to collection agencies and debt collectors. Section 559.72, F.S., mandates "no person" shall engage in the prohibited activities.

complaint through written communication, the office may take certain administrative actions.<sup>9</sup> However, the office may not revoke or suspend a registration if the collection agency can show by a preponderance of the evidence that the violations were not intentional and resulted from a bona fide error.<sup>10</sup> The office must also consider the registrant's volume of business when deciding whether to suspend or revoke a registration. The law allows the office to fine a registrant \$1,000 for violations of the prohibited practices provisions and any action by the office to revoke, suspend or issue an administrative fine must be taken within 2 years of the date of the last violation upon which the action is founded. Also, it is a first-degree misdemeanor to operate a consumer collection agency without first registering with the office, unless the entity is exempt.<sup>11</sup>

According to officials with the office, it does not have authority to impose sanctions for consumer collection agencies which fail to register and the office has limited authority to take action against a consumer collection agency for violations of the prohibited collection practices provisions as noted above. Further, the office has no authority to investigate or examine a consumer collection agency to determine the factual basis of a complaint because complaints may only be handled by written communication with the complainant and the accused agency. Further, there is no bond requirement for consumer collection agencies as there is for commercial collection entities.

Officials with the Office of Financial Regulation assert that it has received numerous complaints as to the practices of both commercial and consumer collection agencies concerning their techniques of collecting debts. It has become clear, according to these officials, that the current industry regulations are largely ineffective.

### **Federal Fair Debt Collection Practices Act/Federal Trade Commission Act**

The federal version of the consumer collection agency act is known as the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. s. 1692, et seq.). Many of the provisions of the FDCPA are similar to the Florida Consumer Collection Law. However, there are provisions in the FDCPA which are not included under Florida's law including provisions pertaining to communications in connection with debt collection; acquisition of location information; false or misleading representations; unfair practices; validation of debts; and the furnishing of deceptive forms. The federal Trade Commission enforces the provisions of the FDCPA. The federal Trade Commission Act, under 15 U.S.C. s. 41 et seq., contains provisions regulating unfair or deceptive practices.

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<sup>9</sup> The office may issue a written warning notice when a collection agency has less than 5 unresolved complaints and the office may issue a written reprimand when 5 or more complaints remain unresolved over a 12-month period. Further, the office may issue a notice of intent to either revoke or suspend a registration when repeated violations of s. 559.72, F.S., have occurred. (s. 559.725, F.S.).

<sup>10</sup> Section 559.730, F.S.

<sup>11</sup> The exemptions under s. 559.553, F.S., are similar to the exemptions for commercial collection agencies. See footnote 4.

### III. Effect of Proposed Changes:

#### **Florida Commercial Collection Practices Act (ss. 559.541-559.548, F.S.)**

**Section 1.** Amends s. 559.544, F.S., pertaining to the requirement to register as a commercial collection agency. The bill clarifies that a person must be registered as a commercial collection agency prior to doing business in this state. The measure inserts the word “applicant” to mean a person applying for a registration and provides for other technical changes.

**Section 2.** Amends s. 559.545, F.S., to insert the word “applicant” where necessary to distinguish an applicant from a registrant. A “registrant” is a person who already possesses a registration and is applying for a registration renewal.

The bill requires applicants for a commercial collection agency registration to provide information reasonably necessary for the office and the Financial Services Commission (commission) to determine the applicant’s eligibility. The bill further requires the OFR to investigate applicants for commercial collection agency registrations upon the filing of the application and fee. These two provisions conform the commercial collection agency registration requirements to the consumer agency provisions.

The legislation provides that a registration that is not renewed by the end of the calendar year expires automatically; however, it may be reactivated on or before January 31 if so requested by the registrant, along with submission of information the office may require, and payment of a late fee, which is equal to the registration fee.<sup>12</sup> The bill increases the application, renewal, and late fees for commercial collection agency applicants and registrants from \$500 to \$800. According to the Office of Financial Regulation (OFR), this increase is necessary to cover the costs of increased oversight authority by the OFR (*See*, Economic Impact and Fiscal Note Section, below).

The bill clarifies that the office does not have to process an application unless both the completed application form and applicable fees are received. The legislation provides that a registrant that engages in the business as a commercial collection agency after its registration expires has violated the penalty provisions under s. 559.548(1), F.S.

**Section 3.** Amends s. 559.546, F.S., applying to bonds, to add the term “applicant” to that section.

**Section 4.** Creates s. 559.5471, F.S., relating to the powers and duties of the office. The bill authorizes the commission to adopt rules to implement the enforcement provisions for the office; to implement procedures to accommodate a person with a technological or financial hardship; and adopt rules to accept certification of compliance in lieu of requiring submission of specified documents. The bill provides that all fees, charges, and fines collected by the office be deposited to the Regulatory Trust Fund of the office. The bill provides for broad enforcement authority to the office to include the following:

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<sup>12</sup> The renewal registrations must be made between October 1 and December 31 of each year.

- issue, revoke, quash or serve subpoenas to compel attendance of witnesses and production of documents;
- administer oaths;
- take testimony and depositions;
- petition a court to compel a person to appear and produce documents; request injunctive and other forms of relief;
- request attorneys fees and costs; and
- assess reasonable costs and expenses associated with investigations.

**Section 5.** Creates s. 559.5473, F.S., pertaining to injunctions to restrain violations, to provide the office with the authority to seek injunctive relief to enjoin any person who has violated or is about to violate any provision of the Act. The bill provides authority for the court, upon application by the office, to issue subpoenas; impound property, assets, and the business of the registrant; and appoint a receiver to administer the property of the registrant.

**Section 6.** Creates s. 559.5474, F.S., relating to cease and desist orders, to provide authority for the office to serve upon a person an order to cease and desist and take corrective action whenever the office has reason to believe that the commercial collection agency is violating, has violated, or is about to violate the Act. Procedural matters relating to cease and desist orders are to be governed by ch. 120, F.S. (Administrative Procedures Act).

**Section 7.** Creates s. 559.5475, F.S., relating to evidence and investigative reports, to provide that an official written report, sworn complaint or other document made by a financial examiner is admissible into evidence if such examiner is available for cross-examination; authenticates the report; and testifies that such report was prepared as a result of an examination of the books and records of the registrant.

**Section 8.** Creates s. 559.5476, F.S., relating to maintenance of books and accounts, to require registrants to maintain books, accounts, records, documents, and receipts for payments made to a creditor by a registrant, for a period of 3 years after the date of original entry so that the office may determine the registrant's compliance with the Act. The bill provides for rulemaking authority to prescribe what must be contained in the registrant's books, accounts, records and documents.

**Section 9.** Creates s. 559.5477, F.S., pertaining to administrative remedies, to provide that the office may revoke or suspend the registration of a registrant if such registrant has been found guilty, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any crime involving fraud, dishonest dealing, or moral turpitude; has had a final judgment entered against the person in a civil action based upon the grounds of fraud, embezzlement, misrepresentation, or deceit; has a pending criminal prosecution; has had any business or professional license suspended or revoked; has failed to maintain a surety bond; has failed to maintain books and records; has violated any order issued by the office; or has paid for a registration with a check which failed to clear. The bill provides that any registration made by false identification is void. The legislation further provides that final action by the office to revoke or suspend such registration is subject to ch. 120, F.S.

The bill provides the procedures for registrants to terminate their registration. The bill authorizes the office to impose administrative fines of \$1,000 per violation and that an administration action brought by the office to revoke, suspend or fine must be brought within 2 years after the date of the last violation upon which the action is founded.

**Florida Consumer Collection Practices (ss. 559.55-559.785, F.S.)**

**Section 10.** Amends s. 559.55, F.S., to include within the definition of “debt,” any unsatisfied obligation for the payment of money arising out of a legal order. The bill amends the definition of “out-of-state consumer debt collector” to eliminate the requirement of a “business” presence by a creditor. To qualify as an out-of-state debt collector, an entity must collect consumer debt from debtors located in this state by means of interstate communication originating from outside this state and solicit creditors who have a presence in this state. Presence in this state means a creditor has an office or resides in this state.

The bill provides a definition of the “Federal Trade Commission Act” which means federal legislation regulating unfair or deceptive practices as set forth in 15 U.S.C. s. 41 et seq. The legislation provides definitions for a person who “controls” an applicant or registrant to mean a person who has the power to vote 25 percent or more of any class of voting securities of such applicant or registrant, or exercises a controlling influence over the activities of such applicant or registrant. “Principal of a registrant or applicant” is defined as an applicant’s or registrant’s owners or the Florida resident agent if a corporation is the applicant or registrant.

**Section 11.** Amends s. 559.552, F.S., to provide that the any violation of the federal Fair Debt Collection Practices Act constitutes a prohibited practice under s. 559.72, F.S. The bill provides that the Act shall be construed in accordance with interpretations of the federal Trade Commission Act and the Fair Debt Collection Practices Act by the Federal Trade Commission. In the event of any inconsistency between provisions of the Act and any federal law, including federal case law, the provision that is more protective of the consumer or debtor will prevail.

**Section 12.** Amends s. 559.553, F.S., to provide technical clarifications to the registration provisions pertaining to consumer collection agencies.

**Section 13.** Amends s. 559.555, F.S., pertaining to registration requirements of consumer collection agencies. The bill provides specific criteria for what must be on the application for registration form including information about the applicant, any principal of the applicant, and each owner, officer, director, and registered agent (if the applicant is a corporation.). The bill requires applicants to have a surety bond of \$50,000, for the benefit of consumers to conform to requirements to commercial collection agency applicants.

The legislation increases the application, annual renewal, and late fees from \$200 to \$800; makes the application fee nonrefundable; provides that the office may deny registration if the applicant, any principal or controlling person of the applicant, has engaged in or committed a variety of acts (including violations specified in the Act under s. 559.72, F.S.); deny registration if the applicant, principal, or controlling person is under investigation, has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to racketeering or any offence involving fraud or dishonest dealing or any felony; has been subject to specified

administrative actions; has filed bankruptcy in the past 7 years; or has falsified or omitted any material information on the application; and provides for annual expiration of a license with a 1 month grace period for reactivation upon paying a late fee.

**Section 14.** Amends s. 559.565, F.S., to increase the fines for out-of-state consumer debt collectors from a total of \$1,000, to \$1,000 per violation.

**Section 15.** Amends s. 559.72, F.S., relating to prohibited practices, to provide that in collecting consumer debts, a person may *not* use any other means (including using or threatening force or violence) to threaten to harm the physical person, property, or reputation of a person to collect a debt; mail a communication to a debtor that indicates that the purpose of the communication is to collect a debt on the outside of the envelope; or, communicate with a debtor at an unusual time or place known or should be known to be inconvenient for the debtor.

**Section 16.** Amends s. 559.725, F.S., pertaining to consumer complaints, to permit any person to file a written complaint against a registrant with the office if such person has reason to believe that the Act has been violated. The bill provides authority to the office to conduct investigations or examine a registrant and requires the registrant to pay travel expenses and per diem for examinations conducted at the registrant's out-of-state location. The bill deletes requirements to classify complaints by type; removes requirements for sworn complaints and requirements to furnish a copy of the complaint to the registrant. The legislation also removes the requirement for a written warning notice to the registrant; deletes the provision requiring written reprimands for registrant's receiving over 5 complaints; and deletes the requirement to issue a notice of intent to revoke or suspend a registrant's license. The bill provides the authority for other agencies to refer complaints to the office.

**Section 17.** Creates s. 559.726, F.S., providing for powers and duties of the office. The bill provides the office with enforcement authority and specific powers; authorizes the commission to adopt rules to implement the enforcement provisions for the office and to implement procedures to accommodate a person with a technological or financial hardship; and to adopt rules to accept certification of compliance in lieu of requiring submission of specified documents. The bill provides that all fees, charges, and fines collected by the office be deposited to the Regulatory Trust Fund of the office. The bill provides for broad enforcement authority to the office to include the following:

- issue, revoke, quash or serve subpoenas to compel attendance of witnesses and production of documents;
- administer oaths;
- take testimony and depositions;
- petition a court to compel a person to appear and produce documents; request injunctive and other forms of relief;
- request attorneys fees and costs; and
- assess reasonable costs and expenses associated with investigations.

**Section 18.** Creates s. 559.7262, F.S., pertaining to injunctions to restrain violations, to provide the office with the authority to seek injunctive relief to enjoin any person who has violated or is about to violate any provision of the Act. The bill provides authority for the court, upon

application by the office, to issue subpoenas; impound property, assets, and the business of the registrant; and appoint a receiver to administer the property of the such registrant.

**Section 19.** Creates s. 559.7263, F.S., relating to cease and desist orders, to provide authority for the office to serve upon a person an order to cease and desist and take corrective action whenever the office has reason to believe that the person is violating, has violated, or is about to violate the Act. Procedural matters relating to cease and desist orders are to be governed by ch. 120, F.S. (Administrative Procedures Act). The office may seek an order of restitution for collected funds due to creditors or any sum collected from a debtor without valid proof of debt.

**Section 20.** Creates s. 559.7264, F.S., relating to evidence and investigative reports, to provide that an official written report, sworn complaint or other document made by a financial examiner is admissible into evidence if such examiner is available for cross-examination; authenticates the report; and testifies that such report was prepared as a result of an examination of the books and records of the registrant.

**Section 21.** Creates s. 559.7265, F.S., relating to maintenance of books and accounts, to require registrants to maintain books, accounts, records, and documents for a period of 3 years after the date of original entry so that the office may determine the registrant's compliance with the Act. The bill provides for rulemaking authority to prescribe what must be contained in the registrant's books, accounts, records and documents.

**Section 22.** Amends s. 559.730, F.S., pertaining to administrative remedies, to provide that the office may revoke or suspend the registration of a registrant if such registrant has committed a violation of s. 559.72, F.S. (section 15 of the bill) or the federal Fair Debt Collection Practices Act; is the subject of a complaint which indicates a pattern of abuse of, or is currently under investigation for, prohibited collection practices under s. 557.72, F.S., or the federal Fair Debt Collection Practices Act; has been found guilty, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any crime involving fraud, dishonest dealing, or moral turpitude; has had a final judgment entered against the person in a civil action upon the grounds of fraud, embezzlement, misrepresentation, or deceit; has a pending criminal prosecution; has had any business or professional license suspended or revoked; has failed to maintain a surety bond; has failed to maintain books and records; has violated any order issued by the office; or has paid for a registration with a check which failed to clear. The bill provides that any registration made by false identification is void. The bill also provides for fines of up to \$1,000 per violation.

The bill further deletes requirements for mitigating factors in revoking or suspending a license including: repeated violations by one employee; whether there was no intent or the violation was a result of a bona fide error; consideration of the number of complaints versus the volume of business; and if affirmative steps have been taken to remedy a violation.

The legislation provides that the Act does not preclude a remedy available under the Federal Trade Commission Act or the Florida Deceptive and Unfair Trade Practices Act, and that remedies are in addition to remedies otherwise available under state or local law.

**Section 23.** Amends s. 559.77, F.S., to provide that if an inconsistency exists between federal law and state law, the provision more protective of the consumer or debtor shall prevail.

**Section 24.** Amends s. 559.785, F.S., to increase criminal penalties from a first-degree misdemeanor to a third-degree felony for any person to operate or solicit business as a consumer collection agency in this state without first registering with the office; to engage in any consumer debt collection activity after revocation or suspension of the registrant's registration; or engaging in collection activity while under a temporary or permanent injunction. The bill also provides that certain acts constitute a second-degree misdemeanor such as relocating a business without written notice to the office or assigning or attempting to assign a registration. The court may invalidate the registration of any registrant who is found guilty of specified conduct. Further, the office may refer evident concerning a violation of the Act to any criminal prosecuting agency.

**Section 25.** Provides for an appropriation for the 2004-05 fiscal year of \$450,575, and seven FTE positions, from the Regulatory Trust Fund of the OFR. The positions will consist of six examiners and one registration analyst.

**Section 26.** Repeals ss. 559.547, F.S. and 559.563, F.S. These provisions made registrations that were obtained with false identification or information void.

**Section 27.** Provides for an effective date of July 1, 2004.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Commercial and consumer collection agencies will be subject to broader regulation and administrative oversight by the Office of Financial Regulation. Collection agencies that violate provisions of the Act would now be subject to increased penalties and administrative fines of \$1,000 per violation. Applicants for consumer collection agency registrations would be required to obtain a surety bond of \$50,000 under the bill's provisions. Application, renewal, and late fees for commercial collection entities are

increased from \$500 to \$800, while similar fees are increased from \$200 to \$800 for consumer collection agencies (*See*, Government Sector Impact, below).

Consumers who are deemed “debtors” under this bill will benefit by the various protections afforded under the bill’s provisions. Also, under s. 559.725, F.S., any person who believes that the provisions of the bill have been violated may file a written complaint to the office and the office may conduct an investigation to determine whether violations have occurred.

**C. Government Sector Impact:**

The Office of Financial Regulation will have enhanced administrative and enforcement powers under the provisions of the bill to regulate both the commercial and consumer collection agency laws. The fiscal impact statement offered by the Office of Financial Regulation is set forth below:

**Impact on the Office of Financial Regulation**

	(FY 04-05)	(FY 05-06)*	(FY 06-07)*
	Amount (FTE)	Amount (FTE)	Amount (FTE)
A. Revenues*			
1.Recurring *	\$ 614,100	\$ 614,100	\$ 614,100
2.Non-Recurring	N/A		
B. Expenditures			
1.Recurring	\$ 392,097 (7)	\$ 392,097 (7)	\$392,097 (7)
2.Non-Recurring	\$ 58,478	\$ 0	\$ 0
3. Total Expenditure	\$ 450,575		

\* Also expect some increased revenues due to fines from enforcement actions but unable to project amount with any accuracy.

**Estimated Fiscal Impact on Private Sector**

The fiscal impact on the private sector is difficult to project. All firms licensed or applying for licensure will have to obtain and maintain a surety bond. The cost of the surety bond will largely be driven by the financial condition of the company. If the entity’s financial strength is good, their collateral requirement could range from 0 to a small percentage of the bond amount. If the entity’s financial strength is weak, their collateral requirement could be up to 100% of the bond amount. In either case, there is an annual premium that generally runs in the 3-5% range of the bond amount.

The collection companies will experience an increase in fees to \$800 each, \$600 for consumer collection companies, and \$300 for commercial collection companies (fees are currently \$200 and \$500 respectively). This represents the increased revenue to the state identified above as \$614,100. Note, that annual renewal fees are also \$800.

**Comments**

Passage of the bill will place additional requirements on applicants at the time of licensure and renewal, such as disclosure of information relating to the entity's and affiliated individual's background. The additional information must be reviewed by staff to determine if it contains any negative findings. This will create a significant workload for the registration staff. Additionally, there are currently no resources to determine on-going compliance with regulations or to assist consumers with issues related to the industry.

**Recurring Costs**

Positions	Location	Class Code	Pay Grade	
Financial Examiner/Analyst I (43900510)	Tampa	1554	020	Comp & Enf
Financial Examiner/Analyst II (43900510)	Tampa	1564	023	Comp & Enf
Financial Examiner/Analyst I (43900510)	Fort Laud	1554	020	Comp & Enf
Financial Examiner/Analyst II (43900510)	Fort Laud	1564	023	Comp & Enf
Financial Examiner/Analyst II (43900510)	Orlando	1564	023	Comp & Enf
Financial Examiner/Analyst II (43900510)	Tallahassee	1564	023	Comp & Enf
Financial Examiner/Analyst II (43900520)	Tallahassee	1564	023	Regulatory Review

Salaries and Benefits	\$ 327,305.00
Expense	21,427.00
Additional Expense	43,365.00
<b>Total</b>	<b>\$ 392,097.00</b>

**Non-Recurring Costs**

Expense	\$ 47,978.00	State Standard Amount (\$3,061 x 7)
OCO	\$ 10,500.00	Additional travel funds for 6 examiners (\$7,227 ea)
<b>Total</b>	<b>\$ 58,478.00</b>	

**Revenues (FY 02-03)**      \$ 249,175

**Projected Increase in Revenue**

	New*	Renewal*	Fee Increase	Total New Revenue
Consumer Collections	314	655	\$600	\$581,400
Commercial Collections	314	81	\$300	\$ 32,700
<b><u>Total Revenue Increase</u></b>				<b><u>\$ 614,100</u></b>

\* Numbers are based on actual FY 2002-03

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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