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1 A bill to be entitled
 2 An act relating to consumer debt collection; amending s.
 3 559.565, F.S.; revising administrative fines; revising
 4 provisions relating to authorized activities of the
 5 Attorney General; amending s. 559.725, F.S.; revising
 6 provisions relating to consumer complaints about a
 7 consumer collection agency; amending s. 559(5), F.S.;
 8 revising administrative remedies; providing an effective
 9 date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Section 559.565, Florida Statutes, is amended
 14 to read:

15

16 559.565 Enforcement action against out-of-state consumer debt
 17 collector.-- The remedies of this section are cumulative to
 18 other sanctions and enforcement provisions of this part for any
 19 violation by an out-of-state consumer debt collector, as defined
 20 in s. 559.55(8).

21 (1) Any out-of-state consumer debt collector who collects or
 22 attempts to collect consumer debts in this state without first
 23 registering in accordance with this part shall be subject to an
 24 administrative fine not to exceed \$25,000 ~~\$1,000~~ together with
 25 reasonable attorney fees and court costs in any successful
 26 action by the state to collect such fines.

27 (2) Any person, whether or not exempt from registration under
 28 this part, who violates the provisions of s. 559.72 shall be

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29 | subject to sanctions for such violations the same as any other
 30 | consumer debt collector, including imposition of an
 31 | administrative fine. The registration of a duly registered out-
 32 | of-state consumer debt collector shall be subject to revocation
 33 | or suspension in the same manner as the registration of any
 34 | other registrant under this part.

35 | (3) In order to effectuate the provisions of this section and
 36 | enforce the requirements of this part as it relates to out-of-
 37 | state consumer debt collectors, the Attorney General is
 38 | expressly authorized to initiate such action on behalf of the
 39 | state as he or she deems appropriate in any state or federal
 40 | ~~district~~ court of competent jurisdiction.

41 |
 42 | Section 2. Section 559.725, Florida Statutes, is amended
 43 | to read:

44 |
 45 | 559.725 Consumer complaints; administrative duties.-

46 | (1) The office ~~Division of Consumer Services of the Department~~
 47 | ~~of Financial Services~~ shall receive and maintain ~~serve as the~~
 48 | ~~registry for receiving and maintaining~~ records of inquiries,
 49 | ~~correspondence,~~ and complaints from consumers concerning any and
 50 | all persons who collect debts, including consumer collection
 51 | agencies.

52 | ~~(2) The division shall classify complaints by type and identify~~
 53 | ~~the number of written complaints against persons collecting or~~
 54 | ~~attempting to collect debts in this state, including credit~~
 55 | ~~grantors collecting their own debts, debt collectors generally,~~
 56 | ~~and, specifically, consumer collection agencies as distinguished~~

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57 ~~from other persons who collect debts such as commercial debt~~
 58 ~~collection agencies regulated under part V of this chapter. The~~
 59 ~~division shall identify the nature and number of various kinds~~
 60 ~~of written complaints, including specifically those alleging~~
 61 ~~violations of s. 559.72.~~

62 (2) ~~(3)~~ The office ~~division~~ shall inform and furnish relevant
 63 information to the appropriate regulatory body of the state or
 64 the Federal Government, or The Florida Bar in the case of
 65 attorneys, if a person ~~when any consumer debt collector exempt~~
 66 ~~from registration under this part~~ has been named in a five or
 67 ~~more written~~ consumer complaint ~~complaints~~ alleging violations
 68 of s. 559.72 ~~within a 12-month period.~~

69 ~~(4) The division shall furnish a form to each complainant whose~~
 70 ~~complaint concerns an alleged violation of s. 559.72 by a~~
 71 ~~consumer collection agency. Such form may be filed with the~~
 72 ~~office. The form shall identify the accused consumer collection~~
 73 ~~agency and provide for the complainant's summary of the nature~~
 74 ~~of the alleged violation and facts which allegedly support the~~
 75 ~~complaint. The form shall include a provision for the~~
 76 ~~complainant to state under oath before a notary public that the~~
 77 ~~allegations therein made are true.~~

78 ~~(5) Upon receipt of such sworn complaint, the office shall~~
 79 ~~promptly furnish a copy of the sworn complaint to the accused~~
 80 ~~consumer collection agency.~~

81 (3) ~~(6)~~ The office shall investigate ~~sworn~~ complaints by ~~direct~~
 82 ~~written communication with the complainant and the affected~~
 83 ~~consumer collection agency. In addition, the office shall~~

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84 ~~attempt to resolve each sworn complaint and shall record the~~
 85 ~~resolution of such complaints.~~
 86 ~~(7) Periodically, the office shall identify consumer~~
 87 ~~collection agencies that have unresolved sworn consumer~~
 88 ~~complaints from five or more different consumers within a 12-~~
 89 ~~month period under the provisions of this part.~~
 90 ~~(8) The office shall issue a written warning notice to the~~
 91 ~~accused consumer collection agency if the office is unable to~~
 92 ~~resolve all such sworn complaints and fewer than five unresolved~~
 93 ~~complaints remain. Such notice shall include a statement that~~
 94 ~~the warning may constitute evidence in any future investigation~~
 95 ~~of similar complaints against that agency and in any future~~
 96 ~~administrative determination of the imposition of other~~
 97 ~~administrative remedies available to the office under this part.~~
 98 ~~(9) The office may issue a written reprimand when five or more~~
 99 ~~such unresolved sworn complaints against a consumer collection~~
 100 ~~agency collectively fall short of constituting apparent repeated~~
 101 ~~violations that warrant more serious administrative sanctions.~~
 102 ~~Such reprimand shall include a statement that the reprimand may~~
 103 ~~constitute evidence in any future investigation of similar~~
 104 ~~complaints against that agency and in any future administrative~~
 105 ~~determination of the imposition of other administrative remedies~~
 106 ~~available to the office.~~
 107 ~~(10) The office shall issue a notice of intent either to revoke~~
 108 ~~or suspend the registration or to impose an administrative fine~~
 109 ~~when the office preliminarily determines that repeated~~
 110 ~~violations of s. 559.72 by an accused registrant have occurred~~
 111 ~~which would warrant more serious administrative sanctions being~~

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112 ~~imposed under this part. The office shall advise each registrant~~
 113 ~~of the right to require an administrative hearing under chapter~~
 114 ~~120, prior to the agency's final action on the matter as~~
 115 ~~authorized by s. 559.730.~~

116 (4) ~~(11)~~ The office shall advise the appropriate state
 117 attorney, or the Attorney General ~~in the case of an out-of-state~~
 118 ~~consumer debt collector,~~ of any determination by the office of a
 119 violation ~~of the requirements~~ of this part by any consumer
 120 collection agency that ~~which~~ is not registered as required by
 121 this part. The office shall furnish the state attorney or
 122 Attorney General with the office's information concerning the
 123 alleged violations of such requirements. The Attorney General
 124 may take action against any violations of this part.

125 (5) A registered consumer collection agency must provide a
 126 written response to the office within 20 days after receipt of a
 127 written request from the office for information concerning a
 128 consumer complaint. The response must address the issues and
 129 allegations raised in the complaint. The office may impose an
 130 administrative fine of up to \$2,500 per request per day upon any
 131 registrant that fails to comply with this subsection.

132
 133 Section 3. Section 559.730(5), Florida Statutes, is
 134 amended to read:

135 559.730 Administrative remedies.--

136 (5) In addition to, or in lieu of suspension or revocation of a
 137 registration, the ~~The~~ office may impose an administrative fine
 138 of up to \$25,000 per violation ~~\$1,000~~ against a ~~the~~ offending
 139 registrant ~~as a sanction for repeated violations of the~~

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140 ~~provisions of s. 559.72 when violations do not rise to the level~~
141 ~~of misconduct governed by subsection (1).~~ The commission shall
142 adopt rules establishing guidelines for imposing administrative
143 penalties. Final office action to impose an administrative fine
144 shall be subject to review in accordance with ss. 120.569 and
145 120.57.

146

147 Section 4. This act shall take effect July 1, 2010.