

**AGENDA
FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

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February 9, 2010

MEMBERS

Governor Charlie Crist
Attorney General Bill McCollum
Chief Financial Officer Alex Sink
Commissioner Charlie Bronson

**Contact: Andrea Moreland (OFR)
(850) 410-9601**

9:00 A.M.
LL-03, The Capitol
Tallahassee, Florida

ITEM	SUBJECT	RECOMMENDATION
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1. Remarks by Commissioner J. Thomas Cardwell on consumer debt collection regulation.

(ATTACHMENT 1)

FOR DISCUSSION AND ANY ACTION DEEMED APPROPRIATE

**FINANCIAL SERVICES COMMISSION
OFFICE OF FINANCIAL REGULATION**

AGENDA ITEM #1

**SUGGESTIONS TO STRENGTHEN
FLORIDA'S CONSUMER COLLECTION PRACTICES ACT**

1. Designate the Office of Financial Regulation as the receiving agency for consumer debt collection complaints. Amend §559.725, Fla. Stat. (2009).
2. Eliminate the requirement for consumer complaints to be in writing and notarized. Amend §559.725, Fla. Stat. (2009).
3. Eliminate the requirement that the Office of Financial Regulation must investigate complaints by direct written communication between the consumer and the accused debt collection agency. Amend §559.725, Fla. Stat. (2009).
4. Eliminate obstacles to taking action against debt collectors who violate the law.
 - For example, remove the requirement that:
 - The Office must have five or more unresolved complaints in a 12-month period by different consumers before it can take disciplinary action against a consumer debt collection agency. Amend §559.725, Fla. Stat. (2009).
 - The Office may only suspend or revoke a registration if the Office can prove that the collection agency "engaged in repeated violations which establish a clear pattern of abuse of prohibited collection practices." Amend § 559.730(1), Fla. Stat. (2009).
5. Require consumer debt collection agencies to promptly respond to consumer complaints. For example, in the area of insurance regulation, licensees are required to respond in writing within 20 days after receipt of a consumer complaint. If the licensee fails to respond within this timeframe, a fine may be imposed. See § 20.121(2)(h)2., Fla. Stat. (2009).
6. Increase administrative fines for violations and remove the requirement that there must be repeated violations before a fine may be imposed. Currently, administrative fines may not exceed \$1,000 for "repeated" violations. See §559.730(5), Fla. Stat. (2009). In contrast, under the Florida's mortgage brokering and lending laws, each violation of that act is punishable by a fine of up to \$25,000 per violation.

7. Provide that any violation of the Florida Consumer Collection Practices Act is also deemed an unfair and deceptive trade practice under Part II of Chapter 501, Florida Statutes. Under Part II of Chapter 501, F.S., the Attorney General may seek civil penalties for violations up to \$10,000 per violation; and if the victim is a senior citizen or handicapped, the fine may be increased to \$15,000 per violation.
8. Authorize the Attorney General to bring civil actions in state court as well as federal court.
9. Provide that any violation of the federal Fair Debt Collection Practices Act is also a violation of Florida law.
10. Revise the consumer collection agency registration process to include fingerprinting for applicants and their control persons (directors, officers, and other persons with the ability to direct the management of the business) and impose registration disqualifying periods for applicants and control persons who have certain criminal offenses in their background. Under rules adopted by the Commission, the Office has implemented such restrictions for mortgage brokers, mortgage lenders, mortgage brokerage businesses, stockbrokers, and money services businesses.
11. Require consumer debt collection agencies to maintain a surety bond. The bond should be conditioned to pay for: 1) misappropriation of consumer funds; 2) administrative fines assessed by the state; and 3) judgments secured by individuals. In the area of money services businesses, the bond requirement is a minimum of \$50,000 up to a maximum of \$2 million. See §560.209, Fla. Stat. (2009).
12. Provide the Office of Financial Regulation with clear authority to investigate consumer complaints. The Office should be given the power to place individuals under oath, and issue subpoenas to compel the testimony of witnesses and the production of documents.
13. Require registrants to maintain books and records of transactions for at least five years.
14. Increase or eliminate the statute of limitations period for administrative actions. Current law imposes a two-year limitations period. §559.730(7), Fla. Stat. (2009). None of the Office's other regulatory programs place a limitations period on administrative actions initiated by the Office.
15. Increase the criminal penalty for unlicensed activity from a first degree misdemeanor to a third degree felony.