

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/HB 413 — Consumer Collection Practices

by Regulatory Affairs Committee; Insurance and Banking Subcommittee; and Rep. Santiago (CS/SB 1006 by Criminal Justice Committee and Senator Hays)

The bill expands the Office of Financial Regulation's (OFR) registration and enforcement authority over consumer collection agencies (CCA) under the Florida Consumer Collection Practices Act (the Act).

The bill creates new requirements in s. 559.555, F.S., for applicants, including a criminal background check. A "control person" of an applicant must submit live-scan fingerprints for processing by the Florida Department of Law Enforcement (FDLE) for state criminal background checks and by the Federal Bureau of Investigation for federal criminal background checks to enable the OFR to determine applicants' fitness for registration. "Control person" is defined as an individual or entity that possesses the power to direct the management or policies of a company, whether through ownership of at least 10 percent of a class of voting securities, by contract, or otherwise.

The bill will subject approved registrants to reporting requirements provided in a new s. 559.5551, F.S. This section requires registrants to notify the OFR when control persons enter certain convictions or pleas, and when changes occur in the information contained in the initial application (such as a new business address) and in the registrant's business organization (such as a new control person). The bill provides that the OFR may bring an administrative action to ensure compliance with the Act, in order to deter registrants from adding an unqualified control person without regulatory approval.

The bill creates a new section 559.5541, F.S., to authorize the OFR to make unannounced examinations and investigations to determine whether a person (as opposed to only registrants) has violated the Act or related rules, regardless whether a consumer complaint has been filed against the CCA. The Act also permits the OFR to enter into joint or concurrent examinations with a state or federal regulatory agency, as long as the other regulator abides with the confidentiality provisions of ch. 119 and the Act.

The bill provides additional grounds for administrative action, such as unregistered activity, material misstatements on a registration application, regulatory actions and certain civil judgments, failure to maintain books and records, and acts of fraud and misrepresentation. These acts can subject an applicant or registrant to denial, suspension, revocation, and administrative fines. The bill provides that the OFR may impose an administrative fine of up to \$1,000 per day for each day that a CCA acts without a valid registration.

The bill authorizes the OFR to summarily suspend registrations pursuant to s. 120.60(6), F.S., based on the arrest for specified crimes of the registrant or control person, and provides that such arrests are deemed sufficient to constitute an immediate danger to the public's health, safety, and welfare. The bill also allows the OFR to deny requests to terminate a registration or to withdraw

a registration application if the OFR believes there are grounds for denial, suspension, restriction, or revocation.

If approved by the Governor, these provisions take effect October 1, 2014.

Vote: Senate 38-0; House 114-0