

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 591, Page 7, Section  
2 407.025, Line 154, by inserting after said section and line the following:

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4 "425.100. 1. As used in this section, the following terms mean:

5 (1) "Debt collection", any act or practice in connection with the collection of consumer debts;

6 (2) "Debt collector", any person who, in the ordinary course of business, regularly, on behalf of  
7 himself, herself, or others, engages in debt collection. "Debt collector" includes any person who composes or  
8 sells or offers to compose or sell forms, letters, and other collection media used or intended to be used for  
9 debt collection but shall not include an attorney or counselor at law;

10 (3) "Debtor", a natural person from whom a debt collector seeks to collect a consumer debt that is  
11 due and owing or alleged to be due and owing.

12 2. No debt collector shall collect or attempt to collect a consumer debt by means of judicial  
13 proceedings if the debt collector knows or should know that service of process, if essential to jurisdiction  
14 over the debtor or the debtor's property, has not been legally effected.

15 3. With respect to an attempted collection of a consumer debt, it is unlawful for a debt collector,  
16 creditor, or attorney to send a communication that simulates legal or judicial process or that gives the  
17 appearance of being authorized, issued, or approved by a governmental agency or attorney when it is not so  
18 authorized, issued, or approved. Any violation of the provisions of this subsection is a class B misdemeanor.

19 4. A debt collector who violates this section with respect to a debtor shall be liable to that debtor  
20 only in an individual action, and the liability shall be limited to any actual damages sustained by the debtor as  
21 a result of the violation. However, if a debt collector violates this section willfully and knowingly, the debt  
22 collector shall additionally be liable to the debtor in an individual action for a penalty in such amount as the  
23 court may allow, which shall be no less than one hundred dollars and no greater than one thousand dollars.

24 5. In a case to enforce any liability under this section, the prevailing party may be entitled to costs of  
25 the action. Reasonable attorney's fees, which shall be based on time necessarily expended to enforce the  
26 liability, shall be awarded to a prevailing debtor. Reasonable attorney's fees shall be awarded to a prevailing  
27 debt collector upon a finding by the court that the debtor's prosecution or defense of the action was not in  
28 good faith.

29 6. Any action under this section may only be brought in an appropriate court of competent  
30 jurisdiction in an individual capacity within one year from the date of the occurrence of the violation."; and

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32 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_