

Commerce Committee

Wednesday, March 24, 2021
9:30 AM - 11:15 AM
Webster Hall (212 Knott)

Meeting Packet

Chris Sprowls
Speaker

Blaise Ingoglia
Chair

The Florida House of Representatives

Commerce Committee

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Meeting Agenda

Wednesday, March 24, 2021
9:30 AM – 11:15 AM
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- CS/HB 621 Tax Collectors and Their Approved Agents by Tourism, Infrastructure & Energy Subcommittee, Williamson
- HB 665 Homeowners' Association Rental Agreements by McClure
- CS/HB 695 Digital License Plate Pilot Program by Tourism, Infrastructure & Energy Subcommittee, Duran
- CS/HB 717 Consumer Protection by Insurance & Banking Subcommittee, Clemons
- HB 737 Craft Distilleries by DiCeglie
- CS/HB 1059 Construction Permits by Regulatory Reform Subcommittee, Robinson, W., Fischer
- HB 1143 Funding of Aviation Development Projects by Grall
- CS/HB 6077 Assets of an Estate in Administration by Insurance & Banking Subcommittee, Robinson, W.

V. Closing Remarks

VI. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 621 Tax Collectors and Their Approved Agents
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, Williamson
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	15 Y, 0 N, As CS	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Hicks	Davis
3) Commerce Committee		Johnson	Hamon

SUMMARY ANALYSIS

County tax collectors serve as the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents for motor vehicle, mobile home, and vessel titles and registrations. Some counties have contracted with privately-owned license plate agents (LPAs) to perform title and registration services. Additionally, tax collectors and their LPAs have access to DHSMV's Florida Real Time Vehicle Information System (FRVIS).

The bill requires that each LPA protect customer privacy and data collection. The bill requires each tax collector and his or her approved LPAs to enter into a memorandum of understanding (MOU) with DHSMV regarding the use of FRVIS.

The bill provides that if a tax collector elects to exercise his or her authority to contract with a private LPA to provide motor vehicle, mobile home, or vessel title and registration services, the tax collector may determine additional service charges to be collected by the LPA. The additional service charges must be fully itemized and disclosed to the person paying the service charge. The LPA must enter into a contract with the tax collector regarding the disclosure of additional service charges.

The bill has an indeterminate fiscal impact on state and local government. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

License Plate Agencies and Fees

Under chapters 320 and 328, F.S. county tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMV's) authorized agents and may title and register motor vehicles, motor homes, and vessels.[1] When processing these transactions, tax collectors charge and collect fees specified in state law,[2] which are remitted to the state. However, chapters 319, 320, and 328, F.S., also require tax collectors to retain certain statutorily prescribed service fees and charges.[3]

Currently 65 counties have elected tax collectors who are constitutional officers. Broward and Miami-Dade Counties have appointed tax collectors under each county's charter government. However, pursuant to section 1(d), Article VIII of the State Constitution, these counties will have elected tax collectors effective January 7, 2025.[4]

Sixteen counties have, or until recently had, contracts with privately owned license plate agents (LPAs) to operate 57 offices that perform title and registration services for motor vehicles, mobile homes, and vessels. In counties with elected tax collectors, LPAs only charge the fees for those services as expressly authorized in statute. In these counties, the LPAs may retain all or a portion of the statutorily authorized service fee that tax collectors are allowed to collect for motor vehicle, mobile home, and vessel title and registration services, as provided in the contracts between the LPA and the tax collector.[5] The LPAs in Broward and Miami-Dade Counties charge[6] fees for motor vehicle, mobile home, and vessel title and registration fees *in addition* to the statutory fees authorized in chapters 319, 320, and 328, F.S. The additional fees levied in Broward and Miami-Dade Counties are levied pursuant to county ordinance and are retained by the LPAs.[7]

County tax collectors, as DHSMV's authorized agents, must issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants, and provide to applicants for each the option to register emergency contact information and the option to be contacted with information about state and federal benefits available as a result of military service, in accordance with DHSMV's rules.[8]

Florida Real Time Vehicle Information System (FRVIS)

The Florida Real Time Vehicle Information System (FRVIS) is a database application used to title and register all motor vehicles, mobile homes, and vessels in Florida. The database provides real-time access to information on every motor vehicle, mobile home, and vessel registered in Florida, including residential and electronic mailing addresses.[9]

Section 320.03(4)(b), F.S., requires that FRVIS be installed in every tax collector's and LPA's office according to a schedule established by DHSMV in consultation with the tax collectors and contingent upon the state providing funds for the system. FRVIS is administered by DHSMV in consultation with

[1] County tax collectors are expressly made agents of the state with respect to motor vehicle registration in s. 320.03(1), F.S., and with respect to vessel registration in s. 328.73(1), F.S.
[2] *See* s. 319.32, F.S., for motor vehicle title fees, s. 320.03, for motor vehicle registration fees, s. 320.04, F.S., as to motor vehicle service charges, and s. 328.72, F.S., as to vessel registration fees.
[3] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 621, p 2. (February 4, 2021).
[4] *Id*.
[5] *Id*.
[6] Formerly the LPAs in Volusia County charged fees. An elected county tax collector took office on January 5, 2021, and the LPA offices closed by February 4, 2021. *Id*.
[7] *Id*.
[8] Section 320.03(1), F.S.
[9] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 621, p 3. (February 4, 2021).

the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is able to operate FRVIS. Only DHSMV, tax collectors, and LPAs have access to FRVIS. Access to FRVIS is governed by memoranda of understanding (MOUs) between DHSMV and each county tax collector. If a tax collector has contracted with an LPA, an additional MOU between DHSMV, the tax collector and the LPA is created.[10]

A fee of 50 cents is charged on each motor vehicle, mobile home, and vehicle registration to cover the cost of FRVIS.[11] These fees are deposited into the Highway Safety Operating Trust Fund to be used exclusively to fund FRVIS.[12]

Effect of the Bill

The bill amends section 320.03, F.S., to require county tax collectors and their approved license tax agents to enter into an MOU with DHSMV regarding the use of FRVIS. This codifies existing practice.

The bill also amends sections 319.32(2), 320.04(3), and 328.72(7), F.S., to provide that if a tax collector elects to exercise his or her authority to contract with an LPA, the tax collector may determine the additional service charges to be collected by the privately-owned LPAs approved by the tax collector for motor vehicle, mobile home and vessel title and registration services. The additional service charges must be fully itemized and disclosed to the person paying service charges to the license plate agent. The LPA is also required to enter into a contract with the tax collector regarding the disclosure of additional service changes.

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Amends section 319.32, F.S., relating to fees; service charge; disposition.

Section 2: Amends section 320.03, F.S., relating to the registration duties of tax collectors.

Section 3: Amends section 320.04, F.S., relating to the registration service charge.

Section 4: Amends section 328.72, F.S., relating to classification, registration, fees and charges; surcharge, disposition of fees; fines; marine turtle stickers.

Section 5: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Any new LPA office would be required to have access to FRVIS to perform motor vehicle, mobile home, and vessel title and registration services. The programming costs associated with allowing access to FRVIS can be absorbed within existing resources.

   However, if the bill results in more tax collectors using LPAs or additional LPA offices being established, DHSMV's recurring costs for replacing equipment in tax collectors' and LPAs' offices,

[10] *Id.* at. 3-4. (January 14, 2021).
[11] *See* ss. 320.03(5) and 328.73(3), F.S.
[12] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 621, pp. 3-4. (February 4, 2021).

as required by section 320.03, F.S., may increase. This could have a negative impact on the ability of the Highway Safety Operating Trust Fund to meet all of the cost obligations for FRVIS and other trust fund purposes.[13] The potential of incurring such future costs cannot be quantified and is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. To the extent that a tax collector performs a smaller share of title and registration work in his or her county and an LPA performs a greater share, the tax collector may retain a larger share of the statutorily authorized fees for such work, if those fees are not shared with the LPA.[14]

2. Expenditures:

Indeterminate. To the extent that a county tax collector performs less title and registration work in his or her county and an LPA performs a greater share, the tax collector's expenditures for performing such work may decrease.[15]

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. County tax collectors will determine the additional service charges that must be collected from LPAs. Use of an LPA is optional to the consumer.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Fees
Article VII, section 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. Article VII, section 19 of the Florida Constitution may apply if the provisions of the bill that authorize county tax collectors to establish additional service charges for LPAs are determined to authorize a new state fee.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[13] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 HB 621 342, p. 5. (January 14, 2021).
[14] *Id.*
[15] *Id.*

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 9, 2021, the Transportation, Infrastructure & Energy Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute.

- Clarifies that provisions authorizing a tax collector to contract with license plate agents are permissive.
- Provides that the tax collector may determine the additional service charges collected by license plate agents.
- Reorganizes the bill's provisions to place them in statutory order.

This analysis is drafted to the committee substitute as approved by the Transportation, Infrastructure & Energy subcommittee.

A bill to be entitled

An act relating to tax collectors and their approved agents; amending s. 319.32, F.S.; authorizing tax collectors to determine service charges collected by privately owned license plate agents for motor vehicle titles; requiring that additional service charges be itemized and disclosed to the person paying them; requiring a license plate agent to enter into a contract with the tax collector for a certain purpose; amending s. 320.03, F.S.; requiring tax collectors and approved license plate agents to enter into a memorandum of understanding with the Department of Highway Safety and Motor Vehicles for a certain purpose; amending s. 320.04, F.S.; authorizing the tax collector to determine service charges collected by privately owned license plate agents for motor vehicle registrations; requiring that additional service charges be itemized and disclosed to the person paying them; requiring a license plate agent to enter into a contract with the tax collector for a certain purpose; amending s. 328.72, F.S.; authorizing the tax collector to determine service charges collected by privately owned license plate agents for vessel registrations and titles; requiring that additional service charges be itemized and disclosed to the

CODING: Words stricken are deletions; words underlined are additions.

person paying them; requiring a license plate agent to enter into a contract with the tax collector for a certain purpose; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (2) of section 319.32, Florida Statutes, to read:

319.32 Fees; service charges; disposition.—

(2)

(c) If a tax collector elects to exercise his or her authority to contract with a license plate agent, the tax collector may determine additional service charges to be collected by the privately owned license plate agents approved by the tax collector. Additional service charges must be fully itemized and disclosed to the person paying the service charges to the license plate agent. The license plate agent shall enter into a contract with the tax collector regarding the disclosure of additional service charges.

Section 2. Subsection (5) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(5) In addition to the fees required under s. 320.08, a fee of 50 cents shall be charged on every license registration

sold to cover the costs of the Florida Real Time Vehicle Information System. The fees collected shall be deposited into the Highway Safety Operating Trust Fund to be used exclusively to fund the system. The fee may only be used to fund the system equipment, software, personnel associated with the maintenance and programming of the system, and networks used in the offices of the county tax collectors as agents of the department and the ancillary technology necessary to integrate the system with other tax collection systems. The department shall administer this program upon consultation with the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is technologically equipped and functional for the operation of the Florida Real Time Vehicle Information System. Tax collectors and their approved license plate agents shall enter into a memorandum of understanding with the department regarding use of the Florida Real Time Vehicle Information System in accordance with paragraph (4)(b). Any designated revenue collected to support functions of the county tax collectors and not used in a given year must remain exclusively in the trust fund as a carryover to the following year.

Section 3. Present subsection (3) of section 320.04, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

320.04 Registration service charge.—

(3) If a tax collector elects to exercise his or her

authority to contract with a license plate agent, the tax collector may determine additional service charges to be collected by privately owned license plate agents approved by the tax collector. Additional service charges must be fully itemized and disclosed to the person paying the service charges to the license plate agent. The license plate agent shall enter into a contract with the tax collector regarding the disclosure of additional service charges.

Section 4. Subsection (7) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(7) SERVICE FEE.—

(a) In addition to other registration fees, the vessel owner shall pay the tax collector a $2.25 service fee for each registration issued, replaced, or renewed. Except as provided in subsection (15), all fees, other than the service charge, collected by a tax collector must be remitted to the department not later than 7 working days following the last day of the week in which the money was remitted. Vessels may travel in salt water or fresh water.

(b) If a tax collector elects to exercise his or her authority to contract with a license plate agent, the tax collector may determine additional service charges to be collected by privately owned license plate agents approved by

the tax collector. Additional service charges must be fully itemized and disclosed to the person paying the service charges to the license plate agent. The license plate agent shall enter into a contract with the tax collector regarding the disclosure of additional service charges.

Section 5. This act shall take effect July 1, 2021.

HB 665

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 665 Homeowners' Association Rental Agreements
SPONSOR(S): McClure
TIED BILLS: **IDEN./SIM. BILLS:** SB 872

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	15 Y, 0 N	Thompson	Anstead
2) Civil Justice & Property Rights Subcommittee	17 Y, 1 N	Mawn	Jones
3) Commerce Committee		Thompson	Hamon

SUMMARY ANALYSIS

Chapter 720, F.S., also known as the "Homeowners' Association Act," governs homeowners' associations (HOAs) in Florida. The powers and duties of an HOA include the powers and duties provided in ch. 720, F.S., and in the HOA governing documents and amendments thereto, which generally apply to all owners.

When an HOA adopts an amendment to its governing documents to restrict members from renting parcels, such restriction applies to all parcel owners, regardless of when they acquired title to their parcels. However, when a condominium (condo) association adopts a rental restriction, the restriction applies only to condo unit owners who consent to the amendment or who acquire title to their unit after the restriction is imposed. As a result, this "grandfathering" provision allows certain condo unit owners to rent their units without the burden of rental restrictions that are imposed prospectively. A similar "grandfathering" provision does not exist for HOAs.

HB 665 provides that, for an HOA with more than 15 parcels, a governing document or a governing document amendment enacted after July 1, 2021, prohibiting or regulating rental agreements for a term of six months or more only applies to an owner who:

- Acquires title to his or her parcel after the governing document or amendment's effective date; or
- Consents to such governing document or amendment.

However, the bill allows an HOA with more than 15 parcels to amend its governing documents to prohibit or regulate rental agreements for terms of less than six months and parcel rental for more than three times a year. Such amendments would apply to all parcel owners.

The bill also specifies that a change of ownership for the purposes of the application of an HOA rental provision does not occur when a parcel owner conveys the parcel to an affiliated entity or when beneficial ownership of the parcel does not change.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Community Associations

The Florida Division of Condominiums, Timeshares and Mobile Homes (Division), within the Department of Business and Professional Regulation (DBPR), provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation, arbitration, and developer disclosure. The Division has regulatory authority over:

- Condominium associations;
- Cooperative associations;
- Florida mobile home parks and related associations;
- Vacation units and timeshares;
- Yacht and ship brokers and related business entities; and
- Homeowners' associations (limited to arbitration of election and recall disputes).[1]

Homeowners' Associations (HOAs)

Chapter 720, F.S., also known as the "Homeowners' Association Act," governs certain types of Florida homeowners' associations (HOAs), protecting the rights of HOA members without unduly impairing an HOA's ability to perform its functions.[2] Chapter 720, F.S., provides requirements for notices of meetings,[3] recordkeeping, including which records are accessible to HOA members,[4] and financial reporting.[5]

An HOA is defined as an association of residential property owners in which voting membership is comprised of "parcel owners," membership is a mandatory condition of parcel ownership, and the HOA is authorized to impose assessments that, if unpaid, may become a lien on the parcel.[6]

Only HOAs whose covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S.[7] Like a condominium or cooperative, an HOA is administered by an elected board of directors.[8] The powers and duties of an HOA include the powers and duties provided in ch. 720, F.S., and in the association's governing documents, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments thereto.[9]

Florida law sets procedures and minimum requirements for HOA operation and provides for a mandatory binding arbitration program, administered by the Division, for certain election and recall disputes,[10] but no state agency directly regulates HOAs.

HOA Rental Restrictions

[1] Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes Complaints/Investigations*, http://myfloridalicense.custhelp.com/app/answers/detail/a_id/2220/~/division-of-florida-condominiums%2C-timeshares%2C-and-mobile-homes (last visited Mar. 12, 2021).
[2] S. 720.302(1), F.S.
[3] S. 720.303(2), F.S.
[4] S. 720.303(4), F.S.
[5] S. 720.303(7), F.S.
[6] S. 720.301(9), F.S.
[7] *Id.*
[8] Ss. 720.303 and 720.307, F.S.
[9] Ss. 720.301 and 720.303, F.S.
[10] S. 720.306(9)(c), F.S.

Unless otherwise provided in the governing documents or required by law, an HOA's governing documents may be amended by the affirmative vote of two-thirds of the HOA's voting interests.[11] Governing document amendments generally apply to all owners in the HOA, except that HOAs with 15 or fewer parcels may only enforce restrictions against a parcel owner that were in place at the time the owner acquired his or her parcel.[12]

Current law does not prevent an HOA from adopting an amendment to its governing documents to restrict members from renting parcels. If an HOA adopts such a provision, the restriction applies to all parcel owners regardless of when they obtained title to their parcels or whether they voted against the restriction.

Conversely, in a condominium association, a rental restriction amendment that alters the duration of the permissible rental term or limits the number of times a unit owner may rent his or her unit during a specified period applies only to a unit owner who:

- Consents to the amendment; or
- Acquires title to his or her unit after the amendment's effective date.[13]

Such a provision does not exist for HOA parcel owners.

Effect of Proposed Changes

HB 665 provides that, for an HOA with more than 15 parcels, a governing document or a governing document amendment enacted after July 1, 2021, prohibiting or regulating rental agreements for a term of six months or more only applies to an owner who:

- Acquires title to his or her parcel after the governing document or amendment's effective date; or
- Consents to such governing document or amendment.

However, the bill allows an HOA with more than 15 parcels to amend its governing documents to prohibit or regulate rental agreements for terms of less than six months and parcel rental for more than three times a year. Such amendments would apply to all parcel owners.

The bill also specifies that a change of ownership for the purposes of the application of an HOA rental provision does not occur when a parcel owner conveys the parcel to an affiliated entity[14] or when beneficial ownership[15] of the parcel does not change. For a conveyance to be recognized as one made to an affiliated entity, the entity must give the HOA a document certifying that the affiliated entity provisions apply and, if requested by the HOA, any organizational documents for the parcel owner and the affiliated entity supporting the certificate's representations. Ownership does change when, with respect to a parcel owner that is a business entity, each person that owned an interest in the entity at the time of the amendment's enactment conveys his or her interest to an unaffiliated party.

[11] S. 720.306(1), F.S.
[12] S. 720.303(1), F.S.
[13] S. 718.110(13), F.S.
[14] "Affiliated entity" means an entity that controls, is controlled by, or is under common control with the parcel owner or that becomes a parent or successor entity by reason of transfer, merger, consolidation, public offering, reorganization, dissolution or sale of stock, or transfer of membership partnership interests.
[15] "Beneficial ownership" means the natural person who ultimately owns or controls a legal entity or arrangement, such as a corporation or a trust. Inter-American Development Bank, *A Beneficial Ownership Implementation Toolkit*, https://www.oecd.org/tax/transparency/beneficial-ownership-toolkit.pdf (last visited Mar.12, 2021).

B. SECTION DIRECTORY:

Section 1: Amends s. 720.306, F.S., relating to meetings of members; voting and election procedures; amendments.

Section 2: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may ensure that HOA parcel owners who acquire title to their parcels before the enactment of a long-term rental restriction would not be subject to the restriction unless they consent to it.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to effect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to homeowners' associations rental agreements; amending s. 720.306, F.S.; providing applicability for governing documents and amendments relating to rental agreements which are enacted after a specified date; providing an exception; providing applicability; specifying when a change of ownership does or does not occur for certain purposes; defining the term "affiliated entity"; providing an effective date.

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

Section 1. Paragraph (h) is added to subsection (1) of section 720.306, Florida Statutes, to read:

720.306 Meetings of members; voting and election procedures; amendments.—

(1) QUORUM; AMENDMENTS.—

(h)1. Except as otherwise provided in this paragraph, any governing document, or amendment to a governing document, that is enacted after July 1, 2021, and that prohibits or regulates rental agreements applies only to a parcel owner who acquires title to the parcel after the effective date of the governing document or amendment, or to a parcel owner who consents, individually or through a representative, to the governing

CODING: Words stricken are deletions; words underlined are additions.

document or amendment.

2. Notwithstanding subparagraph 1., an association may amend its governing documents to prohibit or regulate rental agreements for a term of less than 6 months and may prohibit the rental of a parcel for more than three times in a calendar year, and such amendments shall apply to all parcel owners.

3. This paragraph does not affect the amendment restrictions for associations of 15 or fewer parcel owners under s. 720.303(1).

4. For purposes of this paragraph, a change of ownership does not occur when a parcel owner conveys the parcel to an affiliated entity or when beneficial ownership of the parcel does not change. For purposes of this subparagraph, the term "affiliated entity" means an entity that controls, is controlled by, or is under common control with the parcel owner or that becomes a parent or successor entity by reason of transfer, merger, consolidation, public offering, reorganization, dissolution or sale of stock, or transfer of membership partnership interests. For a conveyance to be recognized as one made to an affiliated entity, the entity must furnish to the association a document certifying that this paragraph applies and provide any organizational documents for the parcel owner and the affiliated entity which support the representations in the certificate, as requested by the association.

5. For purposes of this paragraph, a change of ownership

does occur when, with respect to a parcel owner that is a business entity, each person that owned an interest in the entity at the time of the enactment of the amendment or rule conveys its interest in the business entity to an unaffiliated party.

Section 2. This act shall take effect July 1, 2021.

COMMERCE COMMITTEE

HB 665 by Rep. McClure
Homeowners' Associations Rental Agreements

AMENDMENT SUMMARY
March 24, 2021

Amendment 1 by Rep. McClure (lines 37-55):

- Specifies that a change of ownership **does not occur** when an **heir** becomes the parcel owner.
- Clarifies that a change of ownership **does occur** with regard to a business entity, when **every** person that owned an interest in the **real property** at the time of the enactment of the amendment or rule conveys **their** interest in the **real property** to an unaffiliated **entity**.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Commerce Committee
Representative McClure offered the following:

Amendment

Remove lines 37-55 and insert:

affiliated entity, when beneficial ownership of the parcel does not change, or when an heir becomes the parcel owner. For purposes of this paragraph, the term "affiliated entity" means an entity that controls, is controlled by, or is under common control with the parcel owner or that becomes a parent or successor entity by reason of transfer, merger, consolidation, public offering, reorganization, dissolution or sale of stock, or transfer of membership partnership interests. For a conveyance to be recognized as one made to an affiliated entity, the entity must furnish to the association a document certifying that this paragraph applies and provide any organizational

documents for the parcel owner and the affiliated entity which support the representations in the certificate, as requested by the association.

5. For purposes of this paragraph, a change of ownership does occur when, with respect to a parcel owner that is a business entity, every person that owned an interest in the real property at the time of the enactment of the amendment or rule conveys their interest in the real property to an unaffiliated entity.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 695 Digital License Plate Pilot Program
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, Duran
TIED BILLS: **IDEN./SIM. BILLS:** SB 862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	18 Y, 0 N, As CS	Johnson	Keating
2) Commerce Committee		Johnson	Hamon

SUMMARY ANALYSIS

Current law requires license plates and validation stickers to be made out of metal retroreflective material and meet certain statutory requirements regarding size and number of characters allowed on the plate. However, the Department of Highway Safety and Motor Vehicles (DHSMV) may conduct a pilot program on government vehicles to evaluate alternative license plates.

Digital license plates are dynamic screens, which may be used to replace the current metal license plate. They are able to display information such as a license plate number and annual validation of the current license plate. A digital license plate may also be used for applications such as electronic tolling and broadcasting emergency alerts.

The bill eliminates DHSMV's current authority to evaluate alternative license plates through a pilot program and creates the Digital License Plate Pilot Program. Beginning July 1, 2021, for government vehicles, and July 1, 2022, for all vehicles, DHSMV must implement the program for the purpose of evaluating the design, concepts, and technology available for digital license plates and the feasibility of digital license plates. The bill authorizes DHSMV to contract with one or more digital license plate providers, and DHSMV may authorize the display of a plate number and validation sticker on a digital license plate. DHSMV may authorize the use of digital license plates for toll collection, if approved by the Department of Transportation or other appropriate tolling authority, and parking permits. DHSMV may establish procedures for displaying emergency alerts, static logo displays, and other displays on the license plate.

The bill requires that, before purchasing a digital license plate, the vehicle owner must purchase a metal license plate from DHSMV and pay all applicable motor vehicle fees. The bill also provides requirements for the digital license plate and requires providers to maintain an inventory of digital license plates, make available digital versions of each specialty license plate, and update the vehicle's registration in real time.

Assuming that most of the programming is between the digital license plate provider and the consumer, the bill will have an insignificant impact on DHSMV expenditures. *See* Fiscal Analysis for details.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida law requires registration license plates to be made of metal specially treated with a retroreflection material. The registration license plate must be designed to increase nighttime visibility and legibility and must be at least 6 inches tall and not less than 12 inches in wide, unless a plate with reduced dimensions is deemed necessary by the Department of Highway Safety and Motor Vehicles (DHSMV) to accommodate motorcycles, mopeds, or similar smaller vehicles. Annual validation stickers must also be treated with a retroreflection material and must adhere to the license plate.[1]

The license plate must be imprinted with a combination of bold letters and numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom. Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. The state motto or the words "Sunshine State" must be printed in lieu of the county name.[2]

Under current law, DHSMV may conduct a pilot program to evaluate the designs, concepts, and technologies for alternative license plates. For purposes of the pilot program, DHSMV must investigate the feasibility and use of alternative license plate technologies and the long-term cost impact to the consumer. A pilot program is limited to license plates that are used on government-owned motor vehicles. Such license plates are exempt from statutory requirements providing the design and material requirement for license plates.[3] DHSMV has had this authority since 2012, but has not conducted a pilot program.

Under current law, PRIDE, Inc.,[4] may manufacture license plates and validation stickers for DHSMV. DHSMV is not required to obtain competitive bids in order to contract with the corporation.[5]

Section 320.07, F.S., provides for the expiration of a motor vehicle registration and the required renewal. The statute provides penalties for operating a motor vehicle without a registration license plate or validation sticker. The penalties are as follows:

- Any person whose motor vehicle or mobile home registration has been expired for a period of six months or less commits a noncriminal traffic infraction, punishable as a nonmoving violation.
- Any person whose motor vehicle or mobile home registration has been expired for more than six months, upon a first offense, is subject to the penalty provided in s. 318.14, F.S.[6]
- Any person whose motor vehicle or mobile home registration has been expired for more than six months, upon a second or subsequent offense, commits a misdemeanor of the second degree.[7]

<u>Digital License Plates</u>
Digital license plates are dynamic screens that may replace the current physical license plate. They are able to display information such as a license plate number and validation of the current license plate.

[1] S. 320.06(3)(a), F.S.
[2] *Id.*
[3] S. 320.06(5), F.S.
[4] PRIDE, Inc. is the corporation organized under ch. 947, F.S., relating to inmate work programs.
[5] S. 320.06(4), F.S.
[6] Section 318.14, F.S., provides certain exceptions to noncriminal traffic infractions and provides for court appearances, payment plans, and authorizes proof of compliance with motor vehicle registration requirements.
[7] S. 320.07(3), F.S.

The license plate may also be used for applications such as electronic tolling and broadcasting emergency alerts.[8]

Digital license plates are currently available in California and Arizona, and 11 other states are in various stages of adoption.[9] Depending on the type of digital license plate, prices start at $499 plus $55 per year or $17.95 per month with a 36-month agreement.[10]

Effect of the Bill

The bill repeals DHSMV's current unused authority to conduct a pilot program to evaluate the designs, concepts, and technologies of alternative license plates. The bill creates s. 320.08069, F.S., to establish the Digital License Plate Pilot Program within DHSMV to evaluate the design, concept, and technologies available for digital license plates and to determine the feasibility of digital license plates.

The bill defines the term "digital license plate" as an electronic display that is designed to display the information required to be included on a physical license plate and be placed on a motor vehicle registered under Ch. 320, F.S., in lieu of a physical license plate.

The bill provides that except as otherwise specified in the bill, or a DHSMV rule adopted to implement the pilot program, a digital license plate is subject to Florida's laws applicable to a physical license plate; however, digital license plates are exempt from the statutory design requirements.

Beginning July 1, 2021, DHSMV must administer the pilot program, which is limited to the installation of digital license plates on government-owned motor vehicles. By July 1, 2022, DHSMV must allow any motor vehicle registered in Florida to be equipped with a digital license plate in lieu of a physical license plate.

The bill authorizes DHSMV to contract with one or more digital license plate providers[11] for the issuance of digital license plates, including any services related to the issuance of digital license plates. The contract must include provisions governing the protection of personal and motor vehicle registration data obtained by a digital license plate provider in the performance of its services.

Under the bill, DHSMV may authorize the display of the motor vehicle's validation on each digital license plate in lieu of the validation sticker. The validation must display the owner's birth month, the license plate number, and the year of expiration or appropriate renewal period if the owner is not a natural person. The validation must be displayed in the upper right corner of the digital license plate.

The bill also provides that DHSMV may authorize the use of a digital license plate for electronic toll collection, if such use has been approved by the Department of Transportation or other appropriate tolling authority or to display a parking permit.

Further, DHSMV may establish procedures for displaying the following information on a digital license plate:

- An emergency alert, including an alert regarding a missing child or missing adult.
- Static logo displays, including displays for fleet license plates, digital versions of specialty license plates, special license plates for military service, and special license plates for the Governor and federal and state legislators.
- Other displays that DHSMV, in consultation with law enforcement agencies, determines are in the interest of public safety.

[8] https://reviver.com/shop/ (last visited February 26, 2021).
[9] *Reviver Announces Florida has Filed Legislation Authorizing its Digital License Plates.* https://www.prnewswire.com/news-releases/reviverannounces-florida-has-filed-legislation-authorizing-its-digital-license-plates-301224838.html, February 9, 2021. (last visited February 26, 2021).
[10] https://reviver.com/shop/ (last visited February 26, 2021).
[11] The bill defines the term "digital license plate provider" as a person or an entity engaged in the business of providing digital license plate hardware and services to motor vehicles.

Under the bill, a digital license plate must:

- Meet the requirements and specifications required above.
- Include the same information required to be included on a physical license plate and legibly display that information at all times and in all light conditions; however, the digital license plate may display the information in a smaller type size when the motor vehicle is parked.
- Have wireless connectivity capability.

A digital license plate provider with whom DHSMV contracts must:

- Maintain an inventory of digital license plates in this state.
- Make available a digital version of each specialty license plate authorized by DHSMV.
- If a digital license plate displays a validation to reflect the current registration period for the motor vehicle, and upon DHSMV request, suspend the display of the validation or indicate in the digital license plate that the motor vehicle's registration has expired.

The bill provides that a consumer who chooses to purchase a digital license plate must purchase it directly from the digital license plate provider. In addition to any fees associated with the purchase of the digital license plate, the consumer is also responsible for paying to DHSMV all applicable motor vehicle fees, including the annual use fee associated with any specialty license plate the consumer wishes to display on the digital license plate.

The bill authorizes DHSMV to adopt rules to implement the digital license plate pilot program.

The bill creates s, 320.07(7), F.S., to provide that the owner of a digital license plate is not subject to the penalties in s. 320.07, F.S., for failure to display a validation if the vehicle was operated in compliance with ch. 320, F.S., and any DHSMV rules governing the placement of digital license plates and registration renewal.

The bill is effective upon becoming a law.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers.

Section 2 Amends s. 320.07, F.S., relating to registration, renewal required.

Section 3 Creates s. 320.08069, F.S., relating to the Digital License Plate Pilot Program.

Section 4 Provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. Since purchasers of digital license plates are also required to pay the statutorily required motor vehicle fees, the bill does not appear to impact state government revenues.

2. Expenditures:

   According to DHSMV, the bill should have an insignificant impact on it, since the purchase of the digital license plate will be conducted solely between the digital license plate provider and the consumer. Therefore, DSHMV does not plan on programming connectivity between the proposed

digital license plates and DSHMV systems and will continue with its current procedures for original and renewal license plate transactions.[12]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Digital license plate providers may see additional revenues associated with the program.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to impact county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DHSMV to adopt rules to implement the Digital License Plate Pilot Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 3, 2021, the Tourism, Infrastructure & Energy Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. In summary, the committee substitute:

- Clarifies that a customer must first obtain a physical license plate from DHSMV prior to obtaining a digital license plate.
- Clarifies that a purchaser of a digital license plate is required to pay all statutorily required motor vehicle fees applicable to his or her registration and accordingly removes the requirement that DHSMV send $4 to PRIDE for every digital license plate sold.
- Requires the digital license plate provider's contract with DHSMV to contain provisions governing the protection of personal and motor vehicle registration data obtained by the provider in the performance of its services.
- Clarifies that the use of a digital license plate for toll collection may be authorized only if such use has been approved by the Department of Transportation or appropriate toll authority.
- Clarifies provisions regarding the use of specialty and special license plates as digital license plates.

[12] Email from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, HB 695. (February 25, 2021).

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.

A bill to be entitled

An act relating to the Digital License Plate Pilot Program; amending s. 320.06, F.S.; deleting provisions relating to the authority of the Department of Highway Safety and Motor Vehicles to conduct a pilot program to evaluate the designs, concepts, and technologies for alternative license plates; amending s. 320.07, F.S.; exempting owners of digital license plates from certain penalties; creating s. 320.08069, F.S.; creating the Digital License Plate Pilot Program within the department; providing the purpose of the program; providing definitions; providing applicability; requiring the department to begin administering the program on a specified date; providing program requirements; authorizing the department to contract with digital license plate providers; providing additional authorizations to the department relating to the program; specifying requirements for digital license plates, digital license plate providers, and digital license plate consumers; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Subsection (5) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

~~(5) The department may conduct a pilot program to evaluate the designs, concepts, and technologies for alternative license plates. For purposes of the pilot program, the department shall investigate the feasibility and use of alternative license plate technologies and the long-term cost impact to the consumer. The pilot program shall be limited to license plates that are used on government-owned motor vehicles as described in s. 320.0655. Such license plates are exempt from the requirements in paragraph (3)(a).~~

Section 2. Subsection (7) is added to section 320.07, Florida Statutes, to read:

320.07 Expiration of registration; renewal required; penalties.—

(7) An owner of a digital license plate as described in s. 320.08069 is not subject to the penalties of this section for failure to display a validation if the vehicle was operated in compliance with this chapter and any rules adopted by the department governing the placement of digital license plates and registration renewal.

Section 3. Section 320.08069, Florida Statutes, is created to read:

320.08069 Digital License Plate Pilot Program.—There is created within the department the Digital License Plate Pilot Program. The purpose of the program is to evaluate the design, concepts, and technologies available for digital license plates and to determine the feasibility of digital license plates.

(1) DEFINITIONS.—As used in this section, the term:

(a) "Digital license plate" means an electronic display that is designed to:

1. Display the information required in this chapter to be included on a physical license plate; and

2. Be placed on a motor vehicle registered under this chapter in lieu of a physical license plate.

(b) "Digital license plate provider" means a person or an entity engaged in the business of providing digital license plate hardware and services to motor vehicle owners.

(2) APPLICABILITY.—Except as otherwise provided by this section or a rule adopted under this section, a digital license plate issued under this section is subject to the laws of this state applicable to a physical license plate; however, digital license plates issued under this section are exempt from s. 320.06(3)(a).

(3) DIGITAL LICENSE PLATE PILOT PROGRAM.—

(a) Beginning July 1, 2021, the department shall administer the program. The program must be limited to installation and use of digital license plates on government-

owned motor vehicles as described in s. 320.0655.

(b) By July 1, 2022, the department shall allow any motor vehicle registered under this chapter to be equipped with a digital license plate in lieu of a physical license plate issued under s. 320.06. However, the purchaser of a digital license plate must first obtain a physical license plate from the department before obtaining a digital license plate from a digital license plate provider.

(c) The department may contract with one or more digital license plate providers for the issuance of digital license plates, including any services related to the issuance of digital license plates. The contract must include provisions governing the protection of personal and motor vehicle registration data obtained by a digital license plate provider in the performance of its services.

(d) The department may authorize the display of the motor vehicle's validation on each digital license plate in lieu of the validation sticker. The validation must display the owner's birth month, the license plate number, and the year of expiration or appropriate renewal period if the owner is not a natural person. The validation must be displayed in the upper right corner of the digital license plate.

(e) The department may authorize the use of a digital license plate for electronic toll collection, if such use has been approved by the Department of Transportation or other

appropriate tolling authority, or to display a parking permit.

(f) The department may establish procedures for displaying the following information on a digital license plate:

1. An emergency alert or other public safety alert issued by a governmental entity, including an alert pursuant to s. 937.021.

2. Static logo displays, including unique displays for fleet license plates, digital versions of specialty license plates as described in s. 320.08058, and special license plates for military service as authorized in s. 320.089 and for the Governor and federal and state legislators as authorized in s. 320.0807.

3. Other displays that the department, in consultation with law enforcement agencies, determines are in the interest of public safety.

(4) DIGITAL LICENSE PLATE REQUIREMENTS.—A digital license plate issued under this section must:

(a) Meet the specifications and requirements adopted under subsection (3).

(b) Include the same information required to be included on a physical license plate and legibly display that information at all times and in all light conditions; however, the digital license plate may display the information in a smaller type size when the motor vehicle is parked.

(c) Have wireless connectivity capability.

(5) DIGITAL LICENSE PLATE PROVIDERS.—A digital license plate provider with whom the department contracts shall:

(a) Maintain an inventory of digital license plates issued in this state by the digital license plate provider.

(b) Make available a digital version of each specialty license plate authorized by the department.

(c) If a digital license plate displays a validation, promptly update the display of the validation to reflect the current registration period for the motor vehicle and, upon request of the department, suspend the display of the validation or indicate on the digital license plate that the registration for the motor vehicle has expired.

(6) DIGITAL LICENSE PLATE CONSUMERS.—A consumer who chooses to purchase a digital license plate must purchase a digital license plate directly from a digital license plate provider. In addition to any fees associated with the purchase of a digital license plate, the consumer is also responsible for paying to the department all applicable motor vehicle fees in this chapter, including any annual use fees pursuant to s. 320.08056 associated with any specialty license plate the consumer wishes to display on the digital license plate.

(7) RULEMAKING.—The department may adopt rules to implement this section.

Section 4. This act shall take effect upon becoming a law.

COMMERCE COMMITTEE

CS/HB 695 by Rep. Duran
DIGITAL LICENSE PLATE PILOT PROGRAM

AMENDMENT SUMMARY
MARCH 24, 2021

Amendment 1 by Rep. Duran (Line 122):

- Removes language authorizing a digital license plate to display information in a smaller size type when the vehicle is parked.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Commerce Committee

Representative Duran offered the following:

Amendment

Remove lines 122-124 and insert:

at all times and in all light conditions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 717 Consumer Protection
SPONSOR(S): Insurance & Banking Subcommittee, Clemons and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1598

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N, As CS	Rowley	Luczynski
2) State Administration & Technology Appropriations Subcommittee	14 Y, 0 N	Lee	Topp
3) Commerce Committee		Rowley	Hamon

SUMMARY ANALYSIS

The bill makes the following changes to the laws governing the divisions under the Florida Department of Financial Services (DFS):

- **Consumer Credit Scores and Security Freezes** – The bill prohibits consumer reporting agencies from charging a fee for reissuing a personal identification number used to remove a security freeze. It requires insurers to notify applicants of the availability of DFS's free financial literacy resources at certain times.
- **Consumer Services** – The bill requires that licensees provide documents when responding to written requests from DFS's Division of Consumer Services.
- **Professions** – The bill defines "claims adjusting," establishes insurance adjusting firms' licensure requirements and penalties, removes the licensure fee, and adds grounds upon which DFS may revoke or suspend licenses. The bill also establishes penalties for aiding and abetting unlicensed adjusting firms and bail bond agents.
- **Insurance Agency Names** – The bill provides specific authority for DFS to disapprove insurance agency names containing the words "Medicaid" and "Medicare."
- **Industrial Class Insurers** – The bill amends the laws regarding industrial life insurance, small policies written upon individual lives, so that no such policies may be sold in Florida after July 1, 2021.
- **Policyholder Rights** – The bill extends the time that a policyholder has to cancel a contract with a public adjuster and amends the Homeowner Claims Bill of Rights. The bill also provides claims handling requirements, including policyholder notification of a change in adjuster, for both admitted and surplus lines insurers.
- **Export to Surplus Lines** – The bill mandates that the notification regarding the export of a policy to the surplus lines market, currently given only to commercial policyholders, be given to all policyholders.
- **Unfair or Deceptive Acts** – The bill adds two grounds, based upon effectuating an entire insurance policy without consent, to the list of acts that constitute sliding.
- **Foreign Venue Clauses Prohibited** – The bill requires dispute resolution for policies sold in Florida, and insuring property in Florida, on the admitted or surplus lines markets, occurs in Florida.
- **Florida Insurance Guaranty Association (FIGA) Deductible** – The bill eliminates a $100 deductible that a policyholder must pay for a claim covered by FIGA.
- **Florida Workers' Compensation Insurance Guaranty Association (FWCIGA)** – FWCIGA covers claims for workers' compensation policies that are in effect on the date of the final order of an insurer's liquidation, leaving some policyholders whose policies have lapsed prior to liquidation with unpaid claims. The bill eliminates that disparity by removing an exception to the definition of "covered claim."

The bill may have a minimal positive fiscal impact on state government revenues. It has a minimal negative impact on state expenditures and no impact on local government revenues or expenditures. The bill may have a positive economic benefit to consumers and a possible indeterminate negative economic impact on insurers. Except where otherwise provided, the bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Department of Financial Services (DFS) is composed of 13 divisions and one independent office. They are the Divisions of:

- Accounting and Auditing;
- Consumer Services;
- Funeral, Cemetery, and Consumer Services;
- Insurance Agent and Agency Services;
- Investigative and Forensic Services;
- Public Assistance Fraud;
- Rehabilitation and Liquidation;
- Risk Management;
- State Fire Marshal;
- Treasury;
- Unclaimed Property;
- Workers' Compensation;
- Administration; and the
- Office of Insurance Consumer Advocate.

Consumer Credit Reports and Scores and Security Freezes

Security Freezes

Section 501.0051, F.S., allows a third party, such as a parent or guardian, to place a security freeze on a minor child's credit report, which prohibits a consumer reporting agency from releasing the credit report, credit score, or any information contained in the consumer report without express authorization from the parent or guardian.[1] Within 10 days of placing a security freeze, a consumer reporting agency is required to provide the consumer with a unique personal identification number (PIN) that must then be utilized to request removal of the freeze.[2] Current law permits a consumer reporting agency to charge up to $10 to reissue a lost or misplaced PIN.[3]

Effect of the Bill

The bill removes a credit reporting agency's ability to charge a fee to reissue a PIN.

Credit Reports and Scores

Under certain circumstances, insurers are permitted to utilize applicants' credit reports and scores in underwriting and rating decisions.[4] The insurer must notify applicants that credit reports and scores are being utilized for these purposes.[5] DFS currently offers free financial literacy programs and maintains a toll-free insurance consumer helpline and a website to assist consumers with insurance questions, concerns, and complaints.[6] Insurers are not required to provide applicants with information regarding these resources when notifying applicants of the use of their credit reports and scores.

[1] S. 501.0051(1), F.S.
[2] S. 501.0051(5), F.S.
[3] S. 501.0051(9)(b), F.S.
[4] *See* s. 626.9741, F.S.
[5] *Id.*
[6] Florida Department of Financial Services (DFS), Agency Analysis of 2021 House Bill 717, p. 3 (Feb. 25, 2021).

Effect of the Bill

The bill provides that, at the same time that insurers inform consumers of the use of credit reports and scores for underwriting and rating purposes, the insurers must provide consumers with notification that DFS offers free financial literacy programs to assist them in understanding how credit scores are calculated and how credit works.

Companies' Responses to the Department's Division of Consumer Services

Current law requires that licensees holding certificates of authority from DFS (agents and agencies) or the Office of Insurance Regulation (OIR) (insurance companies) must respond to written requests from DFS's Division of Consumer Services concerning consumer complaints.[7] It does not specifically require that licensees provide documents in response to such requests.

Effect of the Bill

The bill adds requested documents to the response that a licensee must provide to the Division of Consumer Services when the division makes a written request to a licensee regarding a consumer complaint, but specifies that documents need not be released if they are protected by attorney-client or work-product privilege.

Requirements Placed on Licensees of the Department of Financial Services

Agents, Customer and Service Representatives, Adjusters, Insurance Agencies, Managing General Agents, and Insurance Adjusting Firms

Section 626.112, F.S., sets forth various requirements that insurance agents, agencies, adjusters, customer and service representatives, and managing general agents must meet in order to operate within Florida. In 2017, the legislature passed a law modifying the requirements for licensure for adjusters, including adjusting firms.[8] Prior to 2017, an adjusting firm was required to be licensed only if it failed to designate a primary adjuster within 30 days of starting the firm or changing the primary adjuster. Current law still authorizes, but does not require, licensure of adjusting firms.

Although current law provides penalties for acting as an unlicensed insurance agent, adjuster, customer or service representative, or managing general agent, it does not provide any penalties for aiding or abetting an unlicensed person in transacting insurance or otherwise engaging in insurance activities within the state. Additionally, the law does not define the practice of "claims adjusting."

Effect of the Bill

The bill establishes that no individual or entity may act as an adjusting firm without complying with the legal requirements for obtaining an adjusting firm license for each location where activity occurs that only a licensed adjuster may perform. However, a licensed adjusting firm owned and operated by a single licensed adjuster conducting business in his or her individual name and not employing or using the services of other licensees is exempt from this requirement. The licensing requirements for an adjusting firm are essentially notification requirements. An application for licensure as an adjusting firm requires providing the name of each majority owner, partner, officer, and director of the firm, the home address of each, and firm's location. The bill removes the $60 licensure fee. If an adjusting firm is required to be licensed, but fails to apply for licensure, DFS shall impose on the firm an administrative penalty of up to $10,000.

The bill provides that any person who knowingly aids or abets an unlicensed person in transacting insurance or otherwise engaging in insurance activities in Florida without a license commits a third-degree felony. The bill also defines "claims adjusting" and provides that no person, except a duly

[7] S. 624.307(10)(b), F.S.
[8] Ch. 2017-147, Laws of Fla.

licensed attorney exempted under s. 626.860, F.S., or agent exempted under s. 626.862, F.S., shall provide claims adjusting services unless licensed and appointed as an adjuster.

Grounds for Refusal, Suspension, or Revocation of Agent's, Adjuster's, Customer or Service Representative's, or Managing General Agent's License or Appointment

Section 626.621, F.S., provides grounds under which DFS may deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of an applicant, agent, adjuster, customer or service representative, or managing general agent. Currently, these licensees or appointees are not required to maintain the privacy of consumers' financial and medical information. Additionally, Florida law does not provide for administrative action when a person violates Federal Trade Commission laws regarding telephone solicitation.

Effect of the Bill

The bill adds the following to the grounds for which DFS can deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of the above-listed persons:

- taking action that allows a consumer's or customer's personal financial or medical information to be made available or accessible to the general public; and
- initiating in-person or telephone solicitation after 9 p.m. or before 8 a.m. local time of the prospective customer unless the prospective customer requests such contact.

Bail Bond Agents

Bail bond agents and temporary bail bond agents must be licensed in order to operate within Florida. While the law provides for penalties for operating as a bail bond agent or temporary bail bond agent without a license, it does not currently provide any penalty for a licensee under ch. 648, F.S., who aids or abets an unlicensed individual to violate the provisions of the chapter.[9]

Effect of the Bill

The bill provides that any licensee under ch. 648, F.S., who knowingly aids or abets an unlicensed person in violating the licensure and appointment requirements of the chapter commits a third-degree felony.

Insurance Agency Names

Florida law permits DFS to disapprove insurance agency names under certain circumstances, including when the use of those names may mislead the public.[10] DFS has concerns that the inclusion of the words "Medicare" or "Medicaid" in the name of an insurance agency may confuse "vulnerable consumers" about the nature of the agency, but it lacks the specific authority to disapprove an agency name that includes those words.[11]

Effect of the Bill

The bill adds use of the words "Medicare" and "Medicaid" to the grounds for which DFS may disapprove an insurance agency name. An agency licensed as of July 1, 2021, whose name contains the word Medicare or Medicaid, may continue to use the name until June 30, 2023, as long as its license remains valid. A license containing the word Medicare or Medicaid will automatically expire on July 1, 2023, unless these words are removed.

[9] S. 648.30, F.S.
[10] S. 626.602, F.S.
[11] DFS, *supra* note 6, at 2.

Industrial Class Insurers

Industrial class insurers write industrial life insurance policies, which are life insurance policies written upon individual lives in small amounts for which agents generally collect weekly or monthly premiums.[12] In general, the prevalence of industrial life insurance policies has continued to decline. Based upon data available from DFS, no new industrial life insurance has been written in the past year and few licensed life insurers continue to maintain industrial life insurance policies.[13]

Effect of the Bill

The bill amends and repeals the statutes related to industrial class insurers and industrial life insurance so that no industrial life insurance policy may be sold in Florida after July 1, 2021. The bill has no effect on industrial life insurance policies that were sold prior to that date and have continued to remain in force.

Policyholder Rights

Public Adjusters

Public adjusters are regulated under ch. 626, part VI, F.S. Florida law defines a public adjuster as someone who, for something of value, directly or indirectly, prepares, completes, or files an insurance claim for an insured or third-party claimant, or who, for something of value, acts on behalf of, or aids, an insured or third-party claimant in settling a claim for loss or damage covered by an insurance contract, or who advertises for employment as an adjuster of such claims.[14] In general, a claimant executes a contract for the public adjuster to provide claims adjusting services.[15] At present, absent a state of emergency, such a contract may only be canceled within three days after the latter of the date on which the contract was executed or within three days after the date on which the claimant has notified the insurer of the claim.[16] During a state of emergency, and for one year after the date of loss, an insured or claimant has five days after the date on which the contract was executed to cancel the contract without penalty or obligation.

Public adjusters who have contracted with claimants must also provide to the claimant a written estimate of loss to assist the claimant with obtaining a claim payment from the insurance company. According to information received from DFS, following the hurricanes that have affected Florida in recent years, consumers have complained about claims resolution delays due to the lack of responsiveness of public adjusters they hired and the inability to cancel contracts they have executed with these adjusters.[17]

Effect of the Bill

The bill changes the timeframe for an insured or claimant to cancel a contract with a public adjuster without penalty or obligation to 10 calendar days, rather than from three business days after the latter of the date on which the contract was executed or the date on which the insured or claimant has notified the insurer of the claim. The bill provides that the 10-day timeframe applies regardless of whether there is a state of emergency.

The bill also provides that the written estimate that the public adjuster must provide to the claimant must include an itemized per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies. The written estimate must be provided to the insured within 60 days after the date the contract is executed. Additionally, the bill prohibits a licensed contractor or subcontractor from soliciting an insured to file a claim with an insurer.

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[12] S. 627.502, F.S.
[13] DFS, *supra* note 6, at 5.
[14] S. 626.854, F.S.
[15] *See id.*
[16] *Id.*
[17] DFS, *supra* note 6, at 2-3.

Homeowner Claims Bill of Rights

Section 627.7142, F.S., contains a Homeowner Claims Bill of Rights (Bill of Rights) that insurers issuing personal lines residential property insurance policies in Florida must provide to policyholders within 14 days after receiving an initial communication with respect to a claim, unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor. While the Bill of Rights does not contain all of the rights of a policyholder, it is designed to summarize some of the significant rights, including rights regarding communications from insurers, payments of claims, and resolution of disputed claims.[18] The Bill of Rights contains no requirements that an insurer notify the policyholder when it assigns a different adjuster to the claim. It does not specify that a policyholder may be entitled to receive interest from an insurer when the insurer fails to timely fulfill claim obligations. Furthermore, the Bill of Rights does not mention that a policyholder may take video of damage before and after repairs in addition to photographs of the damage.

Effect of the Bill

The bill amends the Bill of Rights in the following ways:

- states that a policyholder to which the Bill of Rights applies must receive the payment of interest from the insurance company if the insurance company does not pay full settlement of a claim or deny the claim within 90 days after the claim is filed; and
- clarifies that in addition to photographs, a policyholder may take video of damage before and after repairs.

The bill requires an insurer to provide the Bill of Rights to a policyholder within 14 days after receiving an initial claim communication, even during a state of emergency.

Insurer's Duties to Acknowledge and Investigate Claims

Pursuant to Florida law, residential property insurers have certain obligations regarding the handling of claims, including responding to communications and timely payment or denial of claims.[19] Policyholders have complained to DFS that repeated changes in adjusters for insurance companies have contributed to significant delays in the claim handling process.[20] In addition, policyholders have indicated that because of a lack of access to claims information, their insurance agents are not able to respond claims-related questions in a meaningful way.[21]

The applicable law neither requires that any licensed adjuster assigned by an insurer to conduct a physical inspection of damage property provide the policyholder with his or her name, license number, and contact information, nor requires that the insurer provide a copy of the inspection report to the policyholder following receipt from the adjuster. There is no statutory requirement that an insurer notify a policyholder when it has assigned a new adjuster to the policyholder's claim. Further, the law does not contain any mandate that the insurer inform the policyholder of the fact that an estimate may be preliminary in nature and may be revised or the fact that when a partial payment is issued the insurer is continuing to evaluate a claim and may issue additional payments.

Effect of the Bill

The bill makes the following changes to existing law regarding the investigation and adjusting of residential property insurance claims:

- Changes the timeframe from 10 business days to 14 days from receipt of a proof of loss statement for an insurer to begin the investigation of a claim.

[18] S. 627.7142, F.S.
[19] S. 627.70131, F.S.
[20] DFS, *supra* note 6, at 4.
[21] *Id.*

- If an investigation of a claim involves a physical inspection of property, a licensed adjuster assigned by the insurer must provide a policyholder with his or her name and license number.
- Provides that any subsequent communication with the policyholder regarding the claim must include the name and license number of the adjuster communicating about the claim.
- Requires the insurer to maintain a record or log of each adjuster who communicates with the policyholder and to provide a list of those adjusters to the policyholder, DFS, or OIR upon request.
- When providing a preliminary or partial damage claim estimate or a preliminary or partial claim payment, an insurer must provide a detailed disclosure as specified in the bill.

The bill provides that the above changes regarding residential property insurance claims shall be applicable to surplus lines policies in addition to policies written on the admitted market.

Export of Policies to Surplus Lines

Notification of Export

When insurance is not available to Florida consumers from authorized insurance carriers[22], it generally becomes necessary and legally permissible to obtain a policy on the surplus lines market.[23] However, under current surplus lines law, only consumers purchasing commercial insurance policies on the surplus lines market receive notification at the time of purchase that policies are being issued on that market.[24] Consequently, the first time that some residential policyholders are informed that their policies have been issued by surplus lines carriers is after their policies have been issued.[25] The notification currently provided to commercial policyholders whose policies are issued on the surplus lines market also includes the statement that "superior coverage may be available in the admitted market and at a lesser cost."[26]

Effect of the Bill

The bill amends surplus lines law to require that, at the time policies are exported to the surplus lines market, the notification statement currently signed by consumers whose commercial insurance policies are being exported to the surplus lines market must be signed, or otherwise acknowledged by all consumers whose insurance policies are being exported to the surplus lines market. The bill also replaces the statement "superior coverage may be available in the admitted market and at a lesser cost," with "coverage may be available in the admitted market." Additionally, the notification statement advises consumers whose policies are being exported that surplus lines carriers are not protected under the Florida Insurance Guaranty Act in the event of the carrier's insolvency.

Unfair Methods of Competition and Unfair or Deceptive Acts – Sliding

The Florida Insurance Code prohibits licensees from engaging in unfair methods of competition and unfair or deceptive acts or practices, including sliding.[27] Under Florida law, sliding currently includes: representing to an applicant that a specific ancillary coverage or product is required by law when it is not; representing to an applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge where there is a charge for it; and charging an applicant for a specific ancillary coverage or product, in addition to the cost of insurance applied for, without informing

[22] Authorized insurance carriers are those who have received a certificate of authority from OIR to transact insurance business within the state. S. 624.09, F.S.
[23] *See* s. 626.913, F.S.
[24] S. 626.916(3)(b)3, F.S.
[25] DFS, *supra* note 6, at 3.
[26] S. 626.916(3)(b)3, F.S.
[27] S. 626.9541, F.S.

the applicant.[28] According to DFS, some Florida insurers have begun a practice of effectuating entire policies without informing consumers they have done so.[29]

Effect of the Bill

The bill adds the following to the list of prohibited conduct that constitutes sliding:

- Initiating, effectuating, binding, or otherwise issuing an insurance policy without prior informed consent from the owner of the property being insured; and
- Mailing, transmitting, or otherwise submitting a premium invoice to a mortgagee or escrow agent in order to effectuate an insurance policy without the prior informed consent from the owner of the property being insured. However, collateral protection insurance by a mortgagee or escrow does not constitute sliding.

Foreign Venue Clauses in Property Insurance Policies

Currently, Florida law does not mandate that property claims dispute resolution for policies sold in Florida, whether such resolution occurs through litigation, arbitration, or mediation, occur within Florida.

Effect of the Bill

The bill provides that no property insurance policy sold in Florida, insuring property located in Florida, after July 1, 2021, whether issued on the admitted or surplus lines markets, may require that an insured engage in dispute resolution, through litigation, arbitration, or mediation, outside Florida.

Florida Insurance Guaranty Association Deductible

Under federal law, insurance companies cannot file for bankruptcy.[30] Instead, they are either rehabilitated or liquidated by their state of domicile. Florida law establishes the system for the treatment of impaired or insolvent insurers[31] in Florida and sets up guaranty associations where necessary.[32] Florida operates five guaranty associations including the Florida Insurance Guaranty Association (FIGA).[33]

FIGA provides a "mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer."[34] It issues guaranty fund payments and provides related services for all lines of property and casualty insurance with certain exceptions.[35]

When a Florida property and casualty insurer becomes insolvent, FIGA takes over the claims of that insurer and pays the claims of its policyholders, ensuring that policyholders are not left with unpaid claims. Florida law provides that FIGA is only obligated to pay the portions of claims made to insolvent property and casualty insurers, which are in excess of $100, and less than $300,000.[36] Under current law, therefore, there is a $100 deductible on all property and casualty claims covered by FIGA.

Effect of the Bill

[28] S. 626.9541(1)(z), F.S.
[29] DFS, *supra* note 6, at 3.
[30] 11 U.S.C. § 109(b)(2).
[31] An "insolvent insurer" means an insurer that was authorized to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction if such order has become final by the exhaustion of appellate review. S. 631.904(4), F.S.
[32] Ch. 631, F.S.
[33] Ch. 631, part II, F.S.
[34] S. 631.51, F.S.
[35] S. 631.52, F.S.
[36] S. 631.57(1), F.S.

The bill eliminates the $100 deductible on claims paid by FIGA so that such claims will be covered for any amount exceeding $0 and less than $300,000.

Florida Workers' Compensation Insurance Guaranty Association

The Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) was created in 1997 by merging the workers' compensation account in FIGA with the Florida Self-Insurance Fund Guaranty Association.[37] FWCIGA "provides a mechanism for the payment of covered claims under chapter 440, F.S., to avoid" delay and financial loss to claimants due to the insolvency of a workers' compensation insurer.[38] When a workers' compensation insurer or self-insurance fund becomes insolvent, FWCIGA takes over the claims of that insurer and pays the claims of its policyholders, ensuring that policyholders are not left with unpaid claims. Because FWCIGA covers claims for workers' compensation policies that are in effect on the date of the final order of liquidation, this leaves policyholders whose policies have lapsed prior to liquidation with unpaid claims.

Effect of the Bill

The bill removes the language "any return of premium resulting from a policy that was not in force on the date of the final order of liquidation" from the definition of what is excluded as a "covered claim."

B. SECTION DIRECTORY:

Section 1. Amends s. 501.0051, F.S., relating to protected consumer report security freeze.

Section 2. Amends s. 624.307, F.S., relating to general powers; duties.

Section 3. Amends s. 624.501, F.S., relating to filing, license, appointment, and miscellaneous fees.

Section 4. Amends s. 626.112, F.S., relating to license and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.

Section 5. Creates s. 626.5813, F.S., relating to claims adjusting.

Section 6. Amends s. 626.602, F.S., relating to insurance agency names; disapproval.

Section 7. Amends s. 626.621, F.S., relating to grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.

Section 8. Amends s. 626.782, F.S., relating to "Industrial class insurer" defined.

Section 9. Amends s. 626.783, F.S., relating to "Ordinary-combination class insurer" defined.

Section 10. Repeals s. 626.796, F.S., relating to representing another insurer in same industrial debit territory.

Section 11. Amends s. 626.854, F.S., relating to "Public adjuster" defined; prohibitions.

Section 12. Amends s. 626.916, F.S., relating to eligibility for export.

Section 13. Amends s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices defined.

Section 14. Amends s. 626.9741, F.S., relating to use of credit reports and credit scores by insurers.

[37] Ch. 97-262, Laws of Fla.
[38] S. 631.902, F.S.

Section 15. Amends s. 626.9953, F.S. to conform cross-references.

Section 16. Amends s. 626.9957, F.S., to conform cross-references.

Section 17. Amends s. 627.062, F.S., to conform cross-references.

Section 18. Amends s. 627.502, F.S., relating to "Industrial life insurance"; defined; reporting.

Section 19. Amends s. 627.70131, F.S., relating to insurer's duty to acknowledge communications regarding claims; investigation.

Section 20. Creates s. 627.7031, relating to foreign venue clauses prohibited.

Section 21. Amends s. 627.7142, F.S., relating to Homeowner Claims Bill of Rights.

Section 22. Amends s. 631.57, F.S., relating to powers and duties of the association.

Section 23. Amends s. 631.904, F.S., relating to definitions.

Section 24. Amends s. 648.30, F.S., relating to licensure and appointment required.

Section 25. Provides an effective date of upon becoming law, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill has the potential to result in increased revenues for DFS in the form of administrative fines imposed on adjusting firms for violations of ss. 624.307 and 626.112, F.S. The increase may be offset by a simultaneous decrease in fines against individual adjusters, since DFS will have authority to levy fines against the firm instead of the individual.[39]

2. Expenditures:

   The bill has an insignificant fiscal impact on DFS. Changes to DFS's licensing system for adjusting firms to be licensed in Florida will have a minimal negative fiscal impact on the Insurance Regulatory Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

[39] Email from Meredith Stanfield, Director of Legislative and Cabinet Affairs, Department of Financial Services, RE: HB 717 Fiscal, (Mar. 9, 2021).

The bill may have positive economic impacts for consumers. It removes fees charged by consumer reporting agencies for the reissuance of PINs and eliminates the $100 deductible FIGA charges for covered claims.

The bill has potential negative direct economic impacts on the private sector. The inability of a consumer reporting agency to charge fees to reissue PINs will result in an indeterminate decrease in revenues for consumer reporting agencies. Adjusting firms will no longer be subject to the $60 licensure fee but could be assessed administrative fines up $10,000 for violations of ss. 624.307 and 626.112, F.S.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 1 of the bill, amending s. 501.0051, F.S., may be federally preempted to the extent it prohibits one of the national consumer reporting agencies (Experian, Equifax, and Trans Union) from charging a fee to reissue a PIN to remove a security freeze.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 4, 2021, the Insurance & Banking Subcommittee considered the bill, adopted two amendments, and reported the bill favorably as a committee substitute. One amendment removed the $60 licensure fee for insurance adjusting firms. The second amendment exempted “agents” from the adjuster licensure requirement in the new section that clarifies what constitutes claims adjusting for the purpose of licensure as a claims adjuster.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

A bill to be entitled

An act relating to consumer protection; amending s. 501.0051, F.S.; prohibiting consumer reporting agencies from charging to reissue or provide a new unique personal identifier to certain consumers, rather than authorizing such agencies to charge the customers' representatives; amending s. 624.307, F.S.; revising a requirement for persons licensed or authorized by the Department of Financial Services or the Office of Insurance Regulation to respond to the department's Division of Consumer Services regarding consumer complaints; amending s. 624.501, F.S.; deleting a fee for adjusting firm licenses; amending s. 626.112, F.S.; removing a provision requiring the department to automatically convert registrations of approved registered insurance agencies to insurance agency licenses; prohibiting unlicensed activity by an adjusting firm unless the firm complies with a specified requirement; providing an exemption; providing an exemption from licensure for branch firms that meet certain criteria; providing an administrative penalty for failing to apply for certain licensure; providing a criminal penalty for aiding or abetting unlicensed activity; creating s. 626.5813, F.S.; defining the term "claims adjusting";

prohibiting a person from providing claims adjusting services unless the person meets specified requirements; amending s. 626.602, F.S.; authorizing the department to disapprove the use of insurance agency names containing the words "Medicare" or "Medicaid"; providing a time-limited exception for certain insurance agencies; prohibiting relicensing of insurance agencies using such names; providing for future expiration of such licenses; providing an exception from future expiration; amending s. 626.621, F.S.; adding grounds on which the department may take certain actions against a license, appointment, or application of certain insurance representatives; amending ss. 626.782 and 626.783, F.S.; revising the definitions of the terms "industrial class insurer" and "ordinary-combination class insurer," respectively, to conform to changes made by the act; repealing s. 626.796, F.S., relating to the representation of multiple insurers in the same industrial debit territory; amending s. 626.854, F.S.; revising the timeframes in which an insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation; requiring that certain public adjuster's contracts include a specified disclosure; specifying

requirements for written estimates of loss provided by public adjusters to claimants or insureds; prohibiting licensed contractors and subcontractors from engaging in certain activities unless licensed and compliant as public adjusters; amending s. 626.916, F.S.; providing a disclosure requirement that an insurance coverage must meet before being eligible for export under the Surplus Lines Law; amending s. 626.9541, F.S.; adding certain acts or practices to the definition of the term "sliding" as unfair methods of competition and unfair or deceptive acts; amending s. 626.9741, F.S.; requiring an insurer's notification regarding certain credit report or score information to include specified language under certain circumstances; amending ss. 626.9953, 626.9957, and 627.062, F.S.; conforming cross-references; amending s. 627.502, F.S.; prohibiting a life insurer from writing new policies of industrial life insurance beginning on a certain date; amending s. 627.70131, F.S.; providing that communication made to or by an insurer's representative, rather than to or by an insurer's agent, constitutes communication to or by the insurer; replacing the defined term "agent" with the term "representative"; revising the timeframe in which an insurer must begin an investigation after receipt of

proof of loss statements; requiring an insurer-assigned licensed adjuster to provide the policyholder with certain information; specifying information that must be included in certain communication with the policyholder regarding a claim; requiring an insurer to keep records of the licensed adjusters interacting with policyholders; requiring an insurer to establish a process to provide the policyholder, the office, or the department with a list of adjusters associated with a claim; requiring an insurer to include specified notices when providing preliminary or partial damage estimates or claim payments; providing applicability; creating s. 627.7031, F.S.; prohibiting foreign venue clauses in property insurance policies; providing applicability; amending s. 627.7142, F.S.; revising circumstances under which an insurer must provide a Homeowner Claims Bill of Rights to a policyholder; revising information contained in the Homeowner Claims Bill of Rights; conforming provisions to changes made by the act; amending s. 631.57, F.S.; deleting a deductible on the obligation of the Florida Insurance Guaranty Association, Incorporated, as to certain covered claims; amending s. 631.904, F.S.; revising the definition of the term "covered claim" to exclude certain premium returns; amending s. 648.30,

F.S.; providing penalties for a licensed bail bond agent or temporary bail bond agent who knowingly engages in certain activities; providing effective dates.

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

Section 1. Paragraph (b) of subsection (9) of section 501.0051, Florida Statutes, is amended to read:

501.0051 Protected consumer report security freeze.—

(9)

(b) A consumer reporting agency may not charge to ~~a reasonable fee, not to exceed $10, if the representative fails to retain the original unique personal identifier provided by the consumer reporting agency and the agency must~~ reissue the unique personal identifier or provide a new unique personal identifier to the protected consumer ~~representative~~.

Section 2. Paragraph (b) of subsection (10) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(10)

(b) Any person licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for documents and information from the division

concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint that are not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $2,500 per violation upon any entity licensed by the department or the office and $250 for the first violation, $500 for the second violation, and up to $1,000 for the third or subsequent violation upon any individual licensed by the department or the office.

Section 3. Subsection (20) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

~~(20) Adjusting firm, original or renewal 3-year license.... $60.00~~

Section 4. Subsection (9) of section 626.112, Florida Statutes, is renumbered as subsection (10), paragraph (d) of subsection (7) and present subsection (9) are amended, and a new subsection (9) is added to that section, to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service

representatives, managing general agents, adjusting firms.—

(7)

~~(d) Effective October 1, 2015, the department must automatically convert the registration of an approved registered insurance agency to an insurance agency license.~~

(9)(a) An individual, firm, partnership, corporation, association, or other entity may not act in its own name or under a trade name, directly or indirectly, as an adjusting firm unless it complies with s. 626.8696 with respect to possessing an adjusting firm license for each place of business at which it engages in an activity that may be performed only by a licensed insurance adjuster. However, an adjusting firm that is owned and operated by a single licensed adjuster conducting business in his or her individual name and not employing or otherwise using the services of or appointing other licensees is exempt from the adjusting firm licensing requirements of this paragraph.

(b) A branch place of business that is established by a licensed adjusting firm is considered a branch firm and is not required to be licensed if:

1. It transacts business under the same name and federal tax identification number as the licensed adjusting firm;

2. It has designated with the department a primary adjuster operating the location as required by s. 626.8695; and

3. The address and telephone number of the branch location have been submitted to the department for inclusion in the

licensing record of the licensed adjusting firm within 30 days after insurance transactions begin at the branch location.

(c) If an adjusting firm is required to be licensed but fails to file an application for licensure in accordance with this section, the department shall impose on the firm an administrative penalty of up to $10,000.

(10)~~(9)~~ Any person who knowingly transacts insurance or otherwise engages in insurance activities in this state without a license in violation of this section or who knowingly aids or abets an unlicensed person in transacting insurance or otherwise engaging in insurance activities in this state without a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Section 626.5813, Florida Statutes, is created to read:

626.5813 Claims adjusting.—

(1)(a) As used in this section, the term "claims adjusting" means directly or indirectly:

1. Attempting or undertaking to ascertain and determine the amount of any claim, loss, or damage payable under an insurance contract or undertaking to negotiate or effect settlement of a claim, loss, or damage under an insurance contract, if such action results in payment to or receipt of money, commission, or any other thing of value by the party or parties rendering such service or persons affiliated with such

party or parties; or

2. Soliciting services as described in subparagraph 1. or soliciting an insured or policyholder to file an insurance claim.

(b) The term does not include:

1. Paid services as a spokesperson used as part of a written or an electronic advertisement.

2. Paid services as a photographer or videographer used to capture images of damage.

3. Paid services to inventory personal property or business personal property.

4. Discussion or explanation of a bid for construction or repair services by a licensed contractor under part I of chapter 489, or a subcontractor for a licensed contractor, with a property owner or the insurer of such property.

(2) Except for a duly licensed attorney at law as exempted under s. 626.860 or an agent as exempted under s. 626.862, a person may not provide claims adjusting services unless licensed and appointed as an adjuster under this part.

Section 6. Subsection (4) is added to section 626.602, Florida Statutes, to read:

626.602 Insurance agency names; disapproval.—The department may disapprove the use of any true or fictitious name, other than the bona fide natural name of an individual, by any insurance agency on any of the following grounds:

(4) The name contains the word "Medicare" or "Medicaid." An agency whose name contains the word "Medicare" or "Medicaid" but which is licensed as of July 1, 2021, may continue to use that name until June 30, 2023, as long as the agency's license remains valid. If the agency's license expires or is suspended or revoked, the agency may not be relicensed using that name. Licenses containing either of these words automatically expire on July 1, 2023, unless these words are removed from the name.

Section 7. Subsections (16) and (17) are added to section 626.621, Florida Statutes, to read:

626.621 Grounds for discretionary refusal, suspension, or revocation of agent's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—The department may, in its discretion, deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of any applicant, agent, adjuster, customer representative, service representative, or managing general agent, and it may suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.611:

(16) Taking an action that allows the personal financial or medical information of a consumer or customer to be made

available or accessible to the general public, regardless of the format in which the record is stored.

(17) Initiating in-person or telephone solicitation after 9 p.m. or before 8 a.m. local time of the prospective customer unless requested by the prospective customer.

Section 8. Section 626.782, Florida Statutes, is amended to read:

626.782 "Industrial class insurer" defined.—An "industrial class insurer" is an insurer collecting premiums on policies of ~~writing~~ industrial life insurance, as defined in s. 627.502, written before July 1, 2021, and as to such insurance, operates under a system of collecting a debit by its agent.

Section 9. Section 626.783, Florida Statutes, is amended to read:

626.783 "Ordinary-combination class insurer" defined.—An "ordinary-combination class insurer" is an insurer writing ~~both~~ ordinary class insurance and collecting premiums on existing industrial life ~~class~~ insurance under s. 626.782.

Section 10. Section 626.796, Florida Statutes, is repealed.

Section 11. Subsections (6), (11), and (15) of section 626.854, Florida Statutes, are amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the

unauthorized practice of law.

(6) An insured or claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation within 10 calendar ~~3 business~~ days after the date on which the contract is executed ~~or within 3 business days after the date on which the insured or claimant has notified the insurer of the claim, whichever is later~~. The public adjuster's contract must contain the following language in minimum 18-point bold type: "You, the insured, may cancel this contract for any reason without penalty or obligation to you within 10 days after the date of this contract by providing notice to (name of public adjuster) , submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, at the address specified in the contract." ~~disclose to the insured or claimant his or her right to cancel the contract and advise the insured or claimant that notice of cancellation must be submitted in writing and sent by certified mail, return receipt requested, or other form of mailing that provides proof thereof, to the public adjuster at the address specified in the contract; provided, during any state of emergency as declared by the Governor and for 1 year after the date of loss, the insured or claimant has 5 business days after the date on which the contract is executed to cancel a public adjuster's contract.~~

(11) Each public adjuster must provide to the claimant or insured a written estimate of the loss to assist in the

submission of a proof of loss or any other claim for payment of insurance proceeds within 60 days after the date of the public adjuster's contract. The written estimate must include an itemized, per-unit estimate of the repairs, including itemized information on equipment, materials, labor, and supplies, in accordance with accepted industry standards. The public adjuster shall retain such written estimate for at least 5 years and shall make the estimate available to the claimant or insured, the insurer, and the department upon request.

(15) A licensed contractor under part I of chapter 489, or a subcontractor, may not adjust a claim on behalf of an insured, or solicit an insured to file an insurance claim, unless licensed and compliant as a public adjuster under this chapter. However, the contractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor and the insured.

Section 12. Effective January 1, 2022, subsection (3) of section 626.916, Florida Statutes, is amended, and paragraph (f) is added to subsection (1) of that section, to read:

626.916 Eligibility for export.—

(1) No insurance coverage shall be eligible for export

unless it meets all of the following conditions:

(f) The insured has signed or otherwise provided documented acknowledgment of a disclosure in substantially the following form: "You are agreeing to place coverage in the surplus lines market. Coverage may be available in the admitted market. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer."

(3)(a) Subsection (1) does not apply to wet marine and transportation or aviation risks that ~~which~~ are subject to s. 626.917.

(b) Paragraphs (1)(a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3)(d)1. These classes may be exportable under the following conditions:

1. The insurance must be placed only by or through a surplus lines agent licensed in this state;

2. The insurer must be made eligible under s. 626.918; and

3. The insured has complied with paragraph (1)(f) ~~must sign a disclosure that substantially provides the following: "You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent~~

~~unlicensed insurer."~~ If the disclosure in paragraph (1)(f) ~~notice~~ is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent-effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.

Section 13. Paragraph (z) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(z) Sliding.—Sliding is the act or practice of any of the following:

1. Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required.~~;~~

2. Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required.~~; or~~

3. Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage

applied for, without the informed consent of the applicant.

4. Initiating, effectuating, binding, or otherwise issuing a policy of insurance without the prior informed consent of the owner of the property to be insured.

5. Mailing, transmitting, or otherwise submitting by any means an invoice for premium payment to a mortgagee or escrow agent for the purpose of effectuating an insurance policy, without the prior informed consent of the owner of the property to be insured. However, this subparagraph does not apply in cases where the mortgagee or escrow agent is renewing insurance or issuing collateral protection insurance, as defined in s. 624.6085, pursuant to the mortgage or other pertinent loan documents or communications regarding the property.

Section 14. Effective January 1, 2022, subsection (3) of section 626.9741, Florida Statutes, is amended to read:

626.9741 Use of credit reports and credit scores by insurers.—

(3) An insurer must inform an applicant or insured, in the same medium as the application is taken, that a credit report or score is being requested for underwriting or rating purposes. The notification to the applicant or insured must include the following language: "The Department of Financial Services offers free financial literacy programs to assist you with insurance-related questions, including how credit works and how credit scores are calculated. To learn more, visit

www.myfloridacfo.com." An insurer that makes an adverse decision based, in whole or in part, upon a credit report must provide at no charge~~,~~ a copy of the credit report to the applicant or insured or provide the applicant or insured with the name, address, and telephone number of the consumer reporting agency from which the insured or applicant may obtain the credit report. The insurer must provide notification to the consumer explaining the reasons for the adverse decision. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's adverse decision. Such notification must ~~shall~~ include a description of the four primary reasons, or such fewer number as existed, which were the primary influences of the adverse decision. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" does not meet the explanation requirements of this subsection. A credit score may not be used in underwriting or rating insurance unless the scoring process produces information in sufficient detail to permit compliance with the requirements of this subsection. It is ~~shall~~ not ~~be deemed~~ an adverse decision if, due to the insured's credit report or credit score, the insured continues to receive a less favorable rate or placement in a less favorable tier or company at the time of renewal except for renewals or reunderwriting required by this section.

Section 15. Subsection (5) of section 626.9953, Florida

Statutes, is amended to read:

626.9953 Qualifications for registration; application required.—

(5) An applicant must submit a set of his or her fingerprints to the department and pay the processing fee established under s. 624.501(23) ~~s. 624.501(24)~~. The department shall submit the applicant's fingerprints to the Department of Law Enforcement for processing state criminal history records checks and local criminal records checks through local law enforcement agencies and for forwarding to the Federal Bureau of Investigation for national criminal history records checks. The fingerprints shall be taken by a law enforcement agency, a designated examination center, or another department-approved entity. The department may not approve an application for registration as a navigator if fingerprints have not been submitted.

Section 16. Subsection (1) of section 626.9957, Florida Statutes, is amended to read:

626.9957 Conduct prohibited; denial, revocation, or suspension of registration.—

(1) As provided in s. 626.112, only a person licensed as an insurance agent or customer representative may engage in the solicitation of insurance. A person who engages in the solicitation of insurance as described in s. 626.112(1) without such license is subject to the penalties provided under s.

626.112(10) ~~s. 626.112(9)~~.

Section 17. Subsection (10) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(10) Any interest paid pursuant to s. 627.70131(7) ~~s. 627.70131(5)~~ may not be included in the insurer's rate base and may not be used to justify a rate or rate change.

Section 18. Section 627.502, Florida Statutes, is amended to read:

627.502 "Industrial life insurance" defined; reporting; prohibition on new policies after a certain date.—

(1) For the purposes of this code, "industrial life insurance" is that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy" or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer that ~~which~~, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

(2) Every life insurer servicing existing ~~transacting~~ industrial life insurance shall report to the office all annual statement data regarding the exhibit of life insurance, including relevant information for industrial life insurance.

(3) Beginning July 1, 2021, a life insurer may not write a new policy of industrial life insurance.

Section 19. Effective January 1, 2022, section 627.70131, Florida Statutes, is amended to read:

627.70131 Insurer's duty to acknowledge communications regarding claims; investigation.—

(1)(a) Upon an insurer's receiving a communication with respect to a claim, the insurer shall, within 14 calendar days, review and acknowledge receipt of such communication unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the control of the insurer which reasonably prevent such acknowledgment. If the acknowledgment is not in writing, a notification indicating acknowledgment shall be made in the insurer's claim file and dated. A communication made to or by a representative ~~an agent~~ of an insurer with respect to a claim shall constitute communication to or by the insurer.

(b) As used in this subsection, the term "representative" ~~"agent"~~ means any person to whom an insurer has granted authority or responsibility to receive or make such communications with respect to claims on behalf of the insurer.

(c) This subsection does ~~shall~~ not apply to claimants represented by counsel beyond those communications necessary to provide forms and instructions.

(2) Such acknowledgment shall be responsive to the communication. If the communication constitutes a notification of a claim, unless the acknowledgment reasonably advises the

claimant that the claim appears not to be covered by the insurer, the acknowledgment shall provide necessary claim forms, and instructions, including an appropriate telephone number.

(3)(a) Unless otherwise provided by the policy of insurance or by law, within 14 ~~10 working~~ days after an insurer receives proof of loss statements, the insurer shall begin such investigation as is reasonably necessary unless the failure to begin such investigation is caused by factors beyond the control of the insurer which reasonably prevent the commencement of such investigation.

(b) If such investigation involves a physical inspection of the property, the licensed adjuster assigned by the insurer must provide the policyholder with a printed or electronic document containing his or her name and license number.

(c) Any subsequent communication with the policyholder regarding the claim must also include the name and license number of the adjuster communicating about the claim. Communication of the adjuster's name and license number may be included along with other information already being provided to the policyholder.

(4) An insurer shall maintain a record or log of each adjuster who communicates with the policyholder as provided in paragraphs (3)(b) and (3)(c), and shall provide a list of the adjusters to the policyholder, the office, or the department upon request.

(5) For purposes of this section, the term "insurer" means any residential property insurer.

(6)(a) When providing a preliminary or partial estimate of damage regarding a claim, an insurer shall include with the estimate the following statement printed in at least 12-point bold, uppercase type: THIS ESTIMATE REPRESENTS OUR CURRENT EVALUATION OF THE COVERED DAMAGES TO YOUR INSURED PROPERTY AND MAY BE REVISED AS WE CONTINUE TO EVALUATE YOUR CLAIM. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(b) When providing a payment on a claim which is not the full and final payment for the claim, an insurer shall include with the payment the following statement printed in at least 12-point bold, uppercase type: WE ARE CONTINUING TO EVALUATE YOUR CLAIM INVOLVING YOUR INSURED PROPERTY AND MAY ISSUE ADDITIONAL PAYMENTS. IF YOU HAVE QUESTIONS, CONCERNS, OR ADDITIONAL INFORMATION REGARDING YOUR CLAIM, WE ENCOURAGE YOU TO CONTACT US.

(7)(a) ~~(5)(a)~~ Within 90 days after an insurer receives notice of an initial, reopened, or supplemental property insurance claim from a policyholder, the insurer shall pay or deny such claim or a portion of the claim unless the failure to pay is caused by factors beyond the control of the insurer which reasonably prevent such payment. Any payment of an initial or supplemental claim or portion of such claim made 90 days after

the insurer receives notice of the claim, or made more than 15 days after there are no longer factors beyond the control of the insurer which reasonably prevented such payment, whichever is later, bears interest at the rate set forth in s. 55.03. Interest begins to accrue from the date the insurer receives notice of the claim. The provisions of this subsection may not be waived, voided, or nullified by the terms of the insurance policy. If there is a right to prejudgment interest, the insured shall select whether to receive prejudgment interest or interest under this subsection. Interest is payable when the claim or portion of the claim is paid. Failure to comply with this subsection constitutes a violation of this code. However, failure to comply with this subsection does not form the sole basis for a private cause of action.

(b) Notwithstanding subsection (5) ~~(4)~~, for purposes of this subsection, the term "claim" means any of the following:

1. A claim under an insurance policy providing residential coverage as defined in s. 627.4025(1);

2. A claim for structural or contents coverage under a commercial property insurance policy if the insured structure is 10,000 square feet or less; or

3. A claim for contents coverage under a commercial tenant policy if the insured premises is 10,000 square feet or less.

(c) This subsection does ~~shall~~ not apply to claims under an insurance policy covering nonresidential commercial

structures or contents in more than one state.

(8) This section also applies to surplus lines insurers and to surplus lines insurance authorized under ss. 626.913-626.937 providing residential coverage.

Section 20. Section 627.7031, Florida Statutes, is created to read:

627.7031 Foreign venue clauses prohibited.—After July 1, 2021, a personal residential property insurance policy sold in the state and insuring only real property located in the state may not require an insured to pursue dispute resolution through litigation, arbitration, or mediation outside the state. This section also applies to surplus lines insurers and to surplus lines insurance authorized under ss. 626.913-626.937.

Section 21. Effective January 1, 2022, section 627.7142, Florida Statutes, is amended to read:

627.7142 Homeowner Claims Bill of Rights.—An insurer issuing a personal lines residential property insurance policy in this state must provide a Homeowner Claims Bill of Rights to a policyholder within 14 days after receiving an initial communication with respect to a claim~~, unless the claim follows an event that is the subject of a declaration of a state of emergency by the Governor~~. The purpose of the bill of rights is to summarize, in simple, nontechnical terms, existing Florida law regarding the rights of a personal lines residential property insurance policyholder who files a claim of loss. The

Homeowner Claims Bill of Rights is specific to the claims process and does not represent all of a policyholder's rights under Florida law regarding the insurance policy. The Homeowner Claims Bill of Rights does not create a civil cause of action by any individual policyholder or class of policyholders against an insurer or insurers. The failure of an insurer to properly deliver the Homeowner Claims Bill of Rights is subject to administrative enforcement by the office but is not admissible as evidence in a civil action against an insurer. The Homeowner Claims Bill of Rights does not enlarge, modify, or contravene statutory requirements, including, but not limited to, ss. 626.854, 626.9541, 627.70131, 627.7015, and 627.7074, and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy or ss. 627.7011(5)(e) and 627.702(7). The Homeowner Claims Bill of Rights must state:

HOMEOWNER CLAIMS
BILL OF RIGHTS

This Bill of Rights is specific to the claims process and does not represent all of your rights under Florida law regarding your policy. There are also exceptions to the stated timelines when conditions are beyond your insurance company's control. This document does not create a civil cause of action by an individual policyholder, or a class of policyholders, against an

insurer or insurers and does not prohibit an insurer from exercising its right to repair damaged property in compliance with the terms of an applicable policy.

YOU HAVE THE RIGHT TO:

1. Receive from your insurance company an acknowledgment of your reported claim within 14 days after the time you communicated the claim.

2. Upon written request, receive from your insurance company within 30 days after you have submitted a complete proof-of-loss statement to your insurance company, confirmation that your claim is covered in full, partially covered, or denied, or receive a written statement that your claim is being investigated.

3. Within 90 days, subject to any dual interest noted in the policy, receive full settlement payment for your claim or payment of the undisputed portion of your claim, or your insurance company's denial of your claim.

4. Receive payment of interest, as provided in section 627.70131, Florida Statutes, from your insurance company, which begins accruing from the date your claim is filed if your insurance company does not pay full settlement of your initial, reopened, or supplemental claim or the undisputed portion of your claim or does not deny your claim within 90 days after your claim is filed. The interest, if applicable, must be paid when

your claim or undisputed portion of your claim is paid.

5.~~4.~~ Have free mediation of your disputed claim by the Florida Department of Financial Services, Division of Consumer Services, under most circumstances and subject to certain restrictions.

6.~~5.~~ Have neutral evaluation of your disputed claim, if your claim is for damage caused by a sinkhole and is covered by your policy.

7.~~6.~~ Contact the Florida Department of Financial Services, Division of Consumer Services' toll-free helpline for assistance with any insurance claim or questions pertaining to the handling of your claim. You can reach the Helpline by phone at...(toll-free phone number)..., or you can seek assistance online at the Florida Department of Financial Services, Division of Consumer Services' website at...(website address)....

YOU ARE ADVISED TO:

1. Contact your insurance company before entering into any contract for repairs to confirm any managed repair policy provisions or optional preferred vendors.

2. Make and document emergency repairs that are necessary to prevent further damage. Keep the damaged property, if feasible, keep all receipts, and take photographs or video of damage before and after any repairs to provide to your insurer.

3. Carefully read any contract that requires you to pay

out-of-pocket expenses or a fee that is based on a percentage of the insurance proceeds that you will receive for repairing or replacing your property.

4. Confirm that the contractor you choose is licensed to do business in Florida. You can verify a contractor's license and check to see if there are any complaints against him or her by calling the Florida Department of Business and Professional Regulation. You should also ask the contractor for references from previous work.

5. Require all contractors to provide proof of insurance before beginning repairs.

6. Take precautions if the damage requires you to leave your home, including securing your property and turning off your gas, water, and electricity, and contacting your insurance company and provide a phone number where you can be reached.

Section 22. Paragraph (a) of subsection (1) and subsection (6) of section 631.57, Florida Statutes, are amended to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(a)1. Be obligated to the extent of the covered claims existing:

a. Before ~~Prior to~~ adjudication of insolvency and arising within 30 days after the determination of insolvency;

b. Before the policy expiration date if less than 30 days after the determination; or

c. Before the insured replaces the policy or causes its cancellation, if she or he does so within 30 days of the determination.

2. The obligation under subparagraph 1. includes ~~only~~ the amount of each covered claim which is ~~in excess of $100 and is~~ less than $300,000, except that policies providing coverage for homeowner's insurance shall provide for an additional $200,000 for the portion of a covered claim which relates only to the damage to the structure and contents.

3.a. Notwithstanding subparagraph 2., the obligation under subparagraph 1. for policies covering condominium associations or homeowners' associations, which associations have a responsibility to provide insurance coverage on residential units within the association, shall include that amount of each covered property insurance claim which is less than $200,000 multiplied by the number of condominium units or other residential units; however, as to homeowners' associations, this sub-subparagraph applies only to claims for damage or loss to residential units and structures attached to residential units.

b. Notwithstanding sub-subparagraph a., the association has no obligation to pay covered claims that are to be paid from the proceeds of bonds issued under s. 631.695. However, the association shall assign and pledge the first available moneys from all or part of the assessments to be made under paragraph (3)(a) to or on behalf of the issuer of such bonds for the

benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

4. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

(6) The association may extend the time limits specified in paragraph (1)(a) by up to an additional 60 days ~~or waive the applicability of the $100 deductible specified in paragraph (1)(a)~~ if the board determines that either or both such actions are necessary to facilitate the bulk assumption of obligations.

Section 23. Subsection (2) of section 631.904, Florida Statutes, is amended to read:

631.904 Definitions.—As used in this part, the term:

(2) "Covered claim" means an unpaid claim, including a claim for return of unearned premiums, which arises out of, is within the coverage of, and is not in excess of the applicable limits of, an insurance policy to which this part applies, which policy was issued by an insurer and which claim is made on behalf of a claimant or insured who was a resident of this state at the time of the injury. The term "covered claim" includes unpaid claims under any employer liability coverage of a

workers' compensation policy limited to the lesser of $300,000 or the limits of the policy. The term "covered claim" does not include any amount sought as a return of premium under any retrospective rating plan; any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; any claim that would otherwise be a covered claim that has been rejected or denied by any other state guaranty fund based upon that state's statutory exclusions, including, but not limited to, those based on coverage, policy type, or an insured's net worth, except this exclusion from the definition of covered claim does not apply to employers who, before ~~prior to~~ April 30, 2004, entered into an agreement with the corporation preserving the employer's right to seek coverage of claims rejected by another state's guaranty fund~~; or any return of premium resulting from a policy that was not in force on the date of the final order of liquidation~~. Member insurers have no right of subrogation against the insured of any insolvent insurer. This provision applies retroactively to cover claims of an insolvent self-insurance fund resulting from accidents or losses incurred before ~~prior to~~ January 1, 1994, regardless of the date the petition in circuit court was filed alleging insolvency and the date the court entered an order appointing a receiver.

Section 24. Section 648.30, Florida Statutes, is amended to read:

648.30 Licensure and appointment required; prohibited acts; penalties.—

(1) A person may not act in the capacity of a bail bond agent or temporary bail bond agent or perform any of the functions, duties, or powers prescribed for bail bond agents or temporary bail bond agents under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

(2) A person may not represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) A person, other than a certified law enforcement officer, may not apprehend, detain, or arrest a principal on a bond, wherever issued, unless that person is qualified, licensed, and appointed as provided in this chapter or licensed as a bail bond agent or bail bond enforcement agent, or holds an equivalent license by the state where the bond was written.

(4) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any licensee under this chapter who knowingly aids or abets an unlicensed person in violating this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 25. Except as otherwise expressly provided in this

act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 737 Craft Distilleries
SPONSOR(S): DiCeglie
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 46

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N	Willson	Anstead
2) State Administration & Technology Appropriations Subcommittee	14 Y, 0 N	Helpling	Topp
3) Commerce Committee		Willson	Hamon

SUMMARY ANALYSIS

In Florida, the Beverage Law regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation administers and enforces the Beverage Law.

The bill creates a quota license exemption for craft distilleries located in a community redevelopment area, subject to certain requirements and limitations.

The bill amends the craft distillery requirements in s. 565.03, F.S., as follows:

- Increases the production limit to qualify as a craft distillery from 75,000 gallons per calendar year to 250,000 gallons per calendar year.
- Limits the amount of distilled spirits that may be transferred to the craft distillery's souvenir gift shop for sale to consumers to 75,000 gallons per calendar year.
- Effective July 1, 2026, requires that a minimum of 60% of the craft distillery's total branded products must be distilled in this state and contain one or more Florida agricultural products.
- Authorizes a maximum of 10 craft distillery licenses under common ownership, consisting of four with a production cap of 250,000 gallons and six with a production cap of 50,000 gallons. "Common ownership" is defined to mean "having a direct or indirect financial interest in two or more distilleries by the same person."
- Allows craft distilleries to sell distilled spirits manufactured on the premises to consumers by the drink or by package.
- Clarifies that craft distilleries may only sell directly to consumers in face-to-face transactions.
- Repeals the six bottle limit per branded product per consumer at a craft distillery's souvenir gift shop.
- Prohibits craft distilleries from shipping alcoholic beverages to consumers.

The bill also authorizes a craft distillery permit for tastings at Florida fairs, trade shows, farmers markets, expositions, and festivals.

The bill appears to have no fiscal impact on state government. The bill may have a positive fiscal impact for certain entities involved in the production or sale of distilled spirits.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Beverage Law and the Three-Tier System

In Florida, the Beverage Law[1] regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco (Division) within the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.[2]

"Alcoholic beverages" are defined in s. 561.01, F.S., as "distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume." "Malt beverages" are brewed alcoholic beverages containing malt.[3]

Since the repeal of Prohibition, regulation of alcohol in the United States has traditionally been based upon what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, and the distributor obtains the beverages from the manufacturer to deliver to the vendor. The vendor makes the ultimate sale to the consumer.[4]

Generally, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail, and manufacturers, distributors, and exporters[5] are generally prohibited from holding a vendor's license.[6] Manufacturers, distributors, and vendors are generally prohibited from being licensed or having an interest in more than one tier. Limited exceptions, subject to certain conditions, include the ability for a craft brewery to hold a vendor's license (tap room), a restaurant to hold a manufacturer's license (brew pub), and a winery to hold up to three vendor's licenses.[7]

Exceptions

Exceptions to the three-tier regulatory system allow certain in-state wineries,[8] craft breweries,[9] and craft distilleries to sell directly to consumers.[10] Further, certain restaurants may be granted a vendor's license to manufacture a limited quantity of malt beverages which can be sold to consumers for consumption on premises.[11]

Wineries may receive up to 3 vendor's licenses on property contiguous to the manufacturing premises of the winery.[12] Section 599.004, F.S., establishes the Florida Farm Winery Program within the Department of Agriculture and Consumer Services. The requirements for certification include that a winery produce or sell less than 250,000 gallons of wine annually of which 60% is made from state agricultural products, maintain a minimum of 5 acres of owned or managed land in Florida which

[1] Section 561.01(6), F.S., provides that the "The Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[2] S. 561.02, F.S.
[3] S. 563.01, F.S.
[4] S. 561.14, F.S.
[5] Section 561.01(16), F.S. "Exporter" means any person that sells alcoholic beverages to persons for use outside the state.
[6] Ss. 561.22(1), 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.
[7] *See* ss. 561.22, 561.24, 561.14(1), and 563.022(14), F.S.
[8] *See* s. 561.221(1), F.S.
[9] *See* s. 561.221(2), F.S.
[10] *See* s. 565.03, F.S.
[11] *See* s. 561.221(3), F.S.
[12] See s. 561.221(1), F.S.

produces commodities used in the production of wine, be open to the public for tours, tastings, and sales at least 30 hours each week, and pay an annual application and registration fee of $100.

Section 561.24, F.S., prohibits the licensing of a manufacturer as a distributor or exporter. Wineries that qualify as a certified Florida Farm Winery are the sole exception to this prohibition. Additionally, the Division may issue permits for a certified Florida Farm Winery to conduct tasting and sales of its wines at Florida fairs, trade shows, expositions, and festivals. The permit is limited to the length of the event. The certified Florida Farm Winery is required to pay all entry fees and must have a winery representative present during the event.

Quota Licenses

Section 561.20, F.S., limits, by county, the number of alcoholic beverage licenses that may be issued to permit the sale of liquor (distilled spirits) to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquor to one that does permit their sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation. A person, firm, or corporation may not have an interest, directly or indirectly, in more than 30 percent of the number of quota licenses in a county.[13]

Quota License Exemptions

Current law permits certain types of businesses or persons to be licensed to sell beer, wine, and liquor without any limitation on the number of such licenses which may be issued in a county, i.e., such licenses are not subject to the quota in s. 561.20, F.S. Exemptions from the quota license system are known as "special licenses."

Section 561.20(2), F.S., provides several exemptions to the number of licenses that permit the sale of beer, wine, and distilled spirits. The exemptions include restaurants, caterers, hotels and motels, specialty centers built on government-owned land, bowling establishments, and airports.

The Beverage Law provides a limited exemption to the quota license limitation to permit the division to issue an alcoholic beverage license (for the sale of beer, wine, and liquor) to:

- An operator of railroads or sleeping cars and a vendor in railroad transit stations.[14]
- Operators of steamships and steamship lines, buses and bus lines, or airplanes and airlines engaged in interstate or foreign commerce or flying between fixed terminals and upon fixed schedules in this state.[15]
- Persons associated together as a chartered or incorporated club, if not organized for the purpose of evading license taxes and meeting certain conditions, including any golf club operated by or on behalf of any incorporated municipality in this state, and any veterans' or fraternal organization of national scope.[16]
- A caterer at a horse or dog racetrack or jai alai fronton.[17]
- A vendor who operates places of business where consumption on the premises is permitted, which premises are located within a theme park complex and meeting specified conditions.[18]
- A marine exhibition park complex meeting specified conditions.[19]
- A state-chartered legal entity not for profit organized principally for the purpose of supporting or managing the affairs of a symphony orchestra.[20]

[13] S. 561.20(6), F.S.
[14] S. 565.02(2), F.S.
[15] S. 565.02(3), F.S.
[16] S. 565.02(4), F.S.
[17] S. 565.02(5), F.S.
[18] S. 565.02(6), F.S.
[19] S. 565.02(7), F.S.
[20] S. 565.02(8), F.S.

- The operator of a passenger vessel engaged exclusively in foreign commerce.[21]
- A state-chartered legal entity not for profit organized principally for the purpose of operating a theater with live performances and not fewer than 100 seats.[22]
- The John and Mable Ringling Museum of Art direct-support organization.[23]

Alcoholic Beverage Deliveries

Vendors, but not manufacturers or distributors, are allowed to make deliveries away from their place of business for sales actually made at their licensed place of business. Telephone, electronic, and mail orders received at a vendor's licensed place of business are construed as a sale actually made at the vendor's licensed place of business. Deliveries may be made in vehicles that are owned or leased by the vendor, or in a third-party vehicle pursuant to a contract with a third party with whom the vendor has contracted to make deliveries, including, but not limited to, common carriers.[24]

A craft brewery which also holds a vendor's license is specifically prohibited from making deliveries under this law.[25]

Distilleries and Craft Distilleries

Section 565.01, F.S., defines the terms "liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" to mean "that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced."

A "distillery" is a manufacturer of distilled spirits, and a "craft distillery" is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A craft distillery must notify the Division in writing of its decision to qualify as a craft distillery.[26]

A distillery engaged solely in the business of manufacturing distilled spirits, or a person engaged in the business of blending and rectifying distilled spirits must pay a state license tax of $4,000 for each plant or branch operating in Florida. The license tax for a craft distillery is $1,000. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.[27]

According to the Division, 61 of the 64 licensed distilleries operating in Florida produce less than 75,000 gallons of distilled spirits.[28]

A craft distillery is allowed to sell to consumers branded products,[29] distilled on the licensed premises, in factory-sealed containers that are filled at the distillery and sold for off-premises consumption only. The sales must occur at the distillery's souvenir gift shop located on private property contiguous to the licensed distillery premises, and included on the sketch submitted with the license application. Sales must be in face-to-face transactions with consumers who are making a purchase of no more than six individual containers of each branded product.[30] The craft distillery is not required to obtain a vendor's license to sell to consumers from their souvenir gift shop.

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[21] S. 565.02(9), F.S.
[22] S. 565.02(10), F.S.
[23] S. 565.02(11), F.S.
[24] S. 561.57(1) & (2), F.S.
[25] Ss. 561.221 (2)(d), and 565.57(1), F.S.
[26] S. 565.03(1)(b) & (c), F.S.
[27] S. 565.03(2)(b), F.S.
[28] Department of Business and Professional Regulation, Agency Analysis of 2020 HB 583, p. 5-6 (Dec. 6, 2019).
[29] Section 565.03(1)(a), F.S., defines "branded product" to mean "any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations."
[30] S. 565.03(1)(c), F.S.

The Division must approve any subsequent revisions to a craft distillery's sketch to verify that the souvenir gift shop location operated by the craft distillery is "owned or leased by the craft distillery and on property contiguous to the craft distillery's production building."[31]

Section 565.03, F.S., imposes the following requirements and prohibitions for craft distilleries:

- A craft distillery may not ship, arrange to ship, or deliver distilled spirits to consumers, but may ship, arrange to ship, or deliver distilled spirits to manufacturers of distilled spirits, wholesale distributors of distilled spirits, state or federal bonded warehouses, and exporters.
- A craft distillery may not transfer its license or any ownership interest to any individual or entity with a direct or indirect interest in another distillery licensed in any other state, territory, or country. However, a craft distillery may be affiliated with another distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises or in any other state, territory, or country.
- A craft distillery must report to the Division within 5 business days after it has reached the 75,000-gallon production limit and cease making sales to consumers on the day after it reaches the production limit.
- A craft distillery must submit beverage excise taxes on distilled spirits sold to consumers in its monthly report to the Division.
- Containers must comply with the container limits in s. 565.10, F.S., which prohibits the sale and distribution of distilled spirits in any size container in excess of 1.75 liters or 59.18 ounces.

Declaratory Statement

On January 19, 2018, the Division issued a declaratory statement interpreting s. 565.03(2)(c), F.S., to permit a craft distillery to sell to consumers, at its souvenir gift shop, a product comprised of a blend of liquors distilled on the premises of the craft distillery and liquors distilled by other manufacturers away from the premises. The craft distillery may then, at the craft distillery, fill individual containers with the final, blended liquor product for sale at its souvenir gift shop.[32] However, a craft distillery may not sell to consumers a product comprised of a blend of only liquors distilled by other manufacturers away from the craft distillery's licensed premises.[33]

Beverage Tastings

Section 565.17, F.S., permits licensed distributors of spirituous beverages and vendors to conduct spirituous beverage tastings at any licensed premises authorized to sell spirituous beverages by package or for consumption on premises without violating s. 561.42, F.S., provided that the conduct of the spirituous beverage tasting is limited to and directed toward the general public of the age of legal consumption.

Community Redevelopment Areas

The Community Redevelopment Act of 1969 authorizes a county or municipality to create a community redevelopment agency (CRA) as a means of redeveloping slums and blighted areas.[34] The act defines a "blighted area" as an area in which there are a substantial number of deteriorated structures causing economic distress or endangerment to life or property and in which two or more of the factors listed in s. 163.340(8), F.S., are present. However, an area may also be classified as blighted if one of the aforementioned factors is present and all taxing authorities with jurisdiction over the area agree that the area is blighted by interlocal agreement or by passage of a resolution by the governing bodies.[35]

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[31] *Id.*

[32] Final Order on Petition for Declaratory Statement, *In Re: Petition for Declaratory Statement Before the Division Of Alcoholic Beverages and Tobacco, On behalf of Drum Circle Distilling, LLC*, DS 2017-071 (DABT Case No. 2017-052675), January 19, 2018.

[33] *Id.*

[34] Ch. 163, F.S., part III.

[35] S. 163.340(8), F.S.

Either a county or a municipal government may create a CRA. A county or municipality may create a CRA upon the adoption of a finding of necessity and a finding that a CRA is necessary for carrying out the community redevelopment goals embodied by the act.[36] A CRA created by a county may only operate within the boundaries of a municipality when the municipality has concurred by resolution with the community redevelopment plan adopted by the county. A CRA created by a municipality may not include more than 80 percent of the municipality if it was created after July 1, 2006.[37]

The act allows the local governing body creating a CRA to choose between two structures for the agency governing board. One option is to appoint a board of commissioners consisting of five to nine members serving four-year terms.[38] The second option is for the local governing body to appoint itself as the agency board of commissioners.[39] A community redevelopment plan must be in place before a CRA can engage in operations.[40]

There are currently 222 active CRAs in Florida.[41]

Effect of the Bill

Quota license exemption

The bill creates s. 565.02(12), F.S., providing a quota license exemption for certain craft distilleries to allow such distilleries to qualify for a vendor's license for the sale of beer, wine, and liquor. The bill authorizes craft distilleries to sell alcoholic beverages for consumption on premises, including alcoholic beverages which are produced by another manufacturer and purchased from a distributor, if the craft distillery is located on a property within a destination entertainment venue and is in operation and open for tours during normal businesses hours at least 5 days a week.

The bill defines a destination entertainment venue (DEV) as:

- a venue located in a CRA;
- owned by any person licensed as a craft distillery located within the venue;
- served by multimodal transportation options; and
- located within a contiguous area of at least 15 acres, that contains:
    - At least one indoor event venue with a minimum capacity of 150 people which is fully serviced by a connected onsite kitchen;
    - At least one outdoor event venue with a minimum capacity of 1,000 people which has regularly occurring live entertainment on a stage that is at least 12 feet deep and 16 feet wide; and
    - One or more licensed craft distilleries sharing identical ownership.

Craft distilleries licensed as a vendor in a CRA must be located within the same DEV, share identical ownership, and distill, blend, or rectify at least 50,000 gallons of blended product per calendar year. No more than three craft distilleries may be licensed as a vendor in a CRA.

Craft distilleries licensed as a vendor are prohibited from making package sales for off-premises consumption or making deliveries or shipments of alcoholic beverages, except as authorized in s. 565.03, F.S. Alcoholic beverages not manufactured at the craft distillery must be purchased from a licensed distributor.

Craft distilleries

The bill also amends the craft distillery requirements in s. 565.03, F.S., as follows:

[36] S. 163.356(1), F.S.
[37] S. 163.340(10), F.S.
[38] S. 163.356(2), F.S.
[39] S. 163.357(1)(a), F.S.
[40] S. 163.360(1), F.S.
[41] Department of Economic Opportunity, *Special District Accountability Program, Official List of Special Districts Online*, http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx (last visited Feb. 23, 2021).

- Increases the production limit to qualify as a craft distillery from 75,000 gallons per calendar year to 250,000 gallons per calendar year.
- Limits the amount of distilled spirits that may be transferred to the craft distillery's souvenir gift shop for sale to consumers to 75,000 gallons per calendar year.
- Effective July 1, 2026, requires that a minimum of 60% of the craft distillery's total branded products must be distilled in this state and contain one or more Florida agricultural products.
- Authorizes a maximum of 10 craft distillery licenses under common ownership, consisting of four with a production cap of 250,000 gallons and six with a production cap of 50,000 gallons. "Common ownership" is defined to mean "having a direct or indirect financial interest in two or more distilleries by the same person."
- Allows craft distilleries to sell distilled spirits manufactured on the premises to consumers by the drink or by package.
- Clarifies that craft distilleries may only sell directly to consumers in face-to-face transactions.
- Repeals the six bottle limit per branded product per consumer at a craft distillery's souvenir gift shop.
- Prohibits craft distilleries from shipping alcoholic beverages to consumers.

The bill also amends s. 565.17, F.S., to authorize a craft distillery permit for tastings at Florida fairs, trade shows, farmers markets, expositions, and festivals.

B. SECTION DIRECTORY:

Section 1: Amends s. 565.02, F.S.; defining the term "destination entertainment venue"; authorizing craft distilleries to be licensed as specified vendors under certain circumstances; providing requirements for such licenses; etc.

Section 2: Amends s. 565.03, F.S.; redefining the terms "branded product" and "craft distillery"; prohibiting a distillery from operating as a craft distillery until certain requirements are met; authorizing persons to have common ownership in craft distilleries under certain circumstances; etc.

Section 3: Amends s. 565.17, F.S.; authorizing craft distilleries to conduct spirituous beverage tastings under certain circumstances; requiring the division to issue permits to craft distilleries to conduct tastings and sales at certain locations; specifying requirements for distilleries for such permits.

Section 4: Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive economic impact for many craft distilleries due to the removal of many current regulatory constraints.

The bill may also provide a positive economic impact for those craft distilleries located in a CRA that qualify for a vendor's license. It is not known how many craft distilleries are currently located in a CRA.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to craft distilleries; amending s. 565.02, F.S.; defining the term "destination entertainment venue"; authorizing craft distilleries to be licensed as specified vendors under certain circumstances; providing requirements for such licenses; providing requirements for craft distilleries for such licenses; prohibiting a licensee from taking certain actions; requiring certain alcoholic beverages to be obtained through a licensed distributor; amending s. 565.03, F.S.; redefining the terms "branded product" and "craft distillery"; prohibiting a distillery from operating as a craft distillery until certain requirements are met; authorizing persons to have common ownership in craft distilleries under certain circumstances; defining the term "common ownership"; requiring a minimum percentage of a craft distillery's total finished branded products to be distilled in this state and contain one or more Florida agricultural products after a specified date; revising the requirements and prohibitions on the sale of branded products to consumers by a licensed craft distillery; revising the circumstances for which a craft distillery must report certain information about the production of distilled

spirits to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation; revising prohibitions on the shipment of certain products by a craft distillery; revising prohibitions on the transfer of a craft distillery license or ownership interest in such license; revising prohibitions relating to affiliated ownership of craft distilleries; authorizing a craft distillery to transfer specified distilled spirits from certain locations to its souvenir gift shop and tasting room; making technical changes; amending s. 565.17, F.S.; authorizing craft distilleries to conduct spirituous beverage tastings under certain circumstances; requiring the division to issue permits to craft distilleries to conduct tastings and sales at certain locations; specifying requirements for distilleries for such permits; providing an effective date.

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

Section 1. Present subsection (12) of section 565.02, Florida Statutes, is redesignated as subsection (13), and a new subsection (12) is added to that section, to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(12)(a) As used in this subsection, the term "destination entertainment venue" means a venue that:

1. Is located in a designated community redevelopment area authorized under an adopted community redevelopment plan to support urban redevelopment and economic development;

2. Is owned by any person licensed as a craft distillery located within the destination entertainment venue;

3. Is adjacent to and served by multimodal transportation options, including, at a minimum, bicycle and pedestrian trails included on an adopted city or county trails map and mass transit routes established by a city, county, or regional transportation authority; and

4. Is located within a contiguous area of at least 15 acres, including associated parking and stormwater requirements as required by local law, regulation, or ordinance, and that contains:

a. At least one indoor event venue with a minimum capacity of 150 people which is fully serviced by a connected onsite kitchen;

b. At least one outdoor event venue with a minimum capacity of 1,000 people which has regularly occurring live entertainment on a stage that is at least 12 feet deep and 16 feet wide; and

c. One or more licensed craft distilleries sharing identical ownership.

(b) Notwithstanding any other provisions of the Beverage Law, upon the payment of the appropriate fees, a craft distillery licensed in this state may be licensed as a vendor only for consumption on the premises of alcoholic beverages manufactured by other manufacturers and acquired through a distributor. The issuance of a license under this paragraph is not subject to any quota or limitation, except that the craft distillery must be:

1. Located on property within a destination entertainment venue; and

2. In operation and open for tours during normal business hours at least 5 days a week.

(c) The vendor license may be issued only for the premises included on the licensed premises sketch on file with the division under s. 565.03 for the craft distillery, including its souvenir gift shop or tasting room.

(d) No more than three craft distilleries may be licensed as a vendor in a community redevelopment area under this subsection. Craft distilleries licensed as a vendor under this subsection must be located within the same destination entertainment venue and must share identical ownership, and each craft distillery must distill, blend, or rectify at least 50,000 gallons of branded products per calendar year.

(e) Except as otherwise provided in this paragraph, a craft distillery licensed as a vendor under this subsection

shall be treated as a vendor and is subject to all provisions relating to such vendors licensed to sell alcoholic beverages for consumption on premises. A craft distillery licensed as a vendor may not make package sales for off-premises consumption or make any delivery or shipment of alcoholic beverages away from the destination entertainment venue or the craft distillery, unless such shipment or delivery is authorized for a craft distillery under s. 565.03.

(f) Alcoholic beverages manufactured by another licensed manufacturer, including branded products manufactured at another craft distillery location sharing identical ownership, must be obtained through a licensed distributor.

Section 2. Paragraphs (a) and (b) of subsection (1) and subsections (2) and (5) of section 565.03, Florida Statutes, are amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; distilleries and craft distilleries.—

(1) As used in this section, the term:

(a) "Branded product" means any distilled spirits product that:

1. Is owned by a craft distillery;

2. Contains distilled spirits that are manufactured by distilling, rectifying, or blending by the craft distillery on its licensed premises; and

3. Has ~~manufactured on site, which requires~~ a federal certificate and label approval by the Federal Government ~~Alcohol Administration Act or federal regulations~~.

(b) "Craft distillery" means a licensed distillery in this state which distills, rectifies, or blends 250,000 ~~that produces 75,000 or fewer~~ gallons or less of distilled spirits per calendar year ~~of distilled spirits~~ on its premises ~~and has notified the division in writing of its decision to qualify as a craft distillery~~.

(2)(a) A distillery may not operate as a craft distillery until the distillery has provided to the division written notification that it meets the criteria specified in paragraph (1)(b). Upon the division's receipt of the notification and its verification that the distillery meets all such criteria, the division shall add the designation of craft distiller on the distillery's license.

(b) A person may not share common ownership in more than 10 craft distilleries, provided that no more than:

1. Four of the distilleries each distill, rectify, or blend 250,000 gallons or less of distilled spirits per calendar year; and

2. Six of the distilleries each distill, rectify, or blend 50,000 gallons or less of distilled spirits per calendar year.

As used in this paragraph, the term "common ownership" means

having a direct or indirect financial interest in two or more distilleries by the same person.

(c) Effective July 1, 2026, a minimum of 60 percent of a craft distillery's total finished branded products must be distilled in this state and contain one or more Florida agricultural products.

(d) A distillery or a craft distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. A distillery engaged in the business of manufacturing distilled spirits: $4,000.

2. A craft distillery engaged in the business of manufacturing distilled spirits: $1,000.

3. A person engaged in the business of rectifying and blending spirituous liquors and nothing else: $4,000.

(e) ~~(b)~~ A licensed distillery or licensed craft distillery may ~~Persons licensed under this section who are in the business of distilling spirituous liquors may also~~ engage in the business of rectifying or ~~and~~ blending spirituous liquors without the payment of an additional license tax.

(f) ~~(c)~~ A craft distillery ~~licensed under this section~~ may sell directly to consumers up to 75,000 gallons per calendar year of~~, at its souvenir gift shop,~~ branded products that are manufactured by the craft distillery ~~distilled~~ on its premises.

A craft distillery may sell branded products directly to consumers by the drink for consumption on the premises or by the package in factory-sealed containers for consumption off the premises ~~in this state in factory-sealed containers that are filled at the distillery for off-premises consumption~~. Such sales are authorized only in the craft distillery's souvenir gift shop or tasting room located on private property contiguous to the licensed ~~distillery~~ premises. Branded products sold to consumers must have been distilled, rectified, or blended on the distillery premises that is located contiguous to the craft distillery's souvenir gift shop or tasting room. The souvenir gift shop or tasting room must be in this state and included on the sketch or diagram defining the licensed premises submitted with the distillery's license application. All sketch or diagram revisions by the distillery shall require the division's approval verifying that the locations of the souvenir gift shops and tasting rooms ~~shop location~~ operated by the licensed distillery are ~~is~~ owned or leased by the distillery and on property contiguous to the distillery's production building in this state.

1. Except as authorized under s. 565.17(2), a craft distillery may not sell any factory-sealed individual containers of spirits to consumers except in face-to-face sales transactions with such consumers at the craft distillery's licensed premises. Such branded products must be in compliance

with the container limits under s. 565.10 and be intended for personal consumption rather than for resale ~~who are making a purchase of no more than six individual containers of each branded product~~.

2. ~~Each container sold in face-to-face transactions with consumers must comply with the container limits in s. 565.10, per calendar year for the consumer's personal use and not for resale and who are present at the distillery's licensed premises in this state.~~

~~3.~~ A craft distillery must report to the division within 5 days after it exceeds ~~reaches~~ the production limits or is no longer operating under the requirements or limitations provided in paragraph (1)(b). Any retail sales of branded products by the drink or by the package to consumers at the craft distillery's licensed premises are prohibited beginning the day after it exceeds ~~reaches~~ the production limitation.

3.~~4.~~ A craft distillery may not ship or arrange to ship any of its branded products or any other alcoholic beverages ~~distilled spirits~~ to consumers and may sell and deliver only to consumers within the state in a face-to-face transaction at the distillery property. However, a craft distillery ~~distiller~~ licensed under this section may ship, arrange to ship, or deliver such spirits to any manufacturers of distilled spirits, wholesale distributors of distilled spirits, state or federal bonded warehouses, or ~~and~~ exporters.

4.~~5.~~ Except as provided in subparagraph 5. ~~subparagraph 6.~~, it is unlawful to transfer a craft distillery license ~~for a distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises~~ or any ownership interest in such license to an individual or entity that has a direct or indirect ownership interest in any distillery that distills, rectifies, or blends 250,000 gallons or more per calendar year of distilled spirits under any license issued ~~licensed~~ in this state; in another state, territory, or country; or by the United States Government to distill ~~manufacture~~, blend, or rectify distilled spirits for beverage purposes.

5.~~6.~~ Except as provided in paragraph (b), a craft distillery may ~~shall~~ not have its ownership affiliated with another distillery, unless such distillery is owned by an individual or entity that distills, rectifies, or blends 250,000 gallons or less per calendar year of distilled spirits ~~produces 75,000 or fewer gallons per calendar year of distilled spirits~~ on each of its premises in this state or in another state, territory, or country.

6. A craft distillery may transfer up to 75,000 gallons per calendar year of its branded products that it distills, rectifies, or blends from its federal bonded space, nonbonded space at its licensed premises, or storage areas to its souvenir gift shop and tasting room.

(5) A craft distillery making sales under paragraph (2)(f)

~~paragraph (2)(c)~~ is responsible for submitting any excise taxes due to the state on distilled spirits ~~on beverages~~ under the Beverage Law with ~~in~~ its monthly report to the division ~~with any tax payments due to the state~~.

Section 3. Section 565.17, Florida Statutes, is amended to read:

565.17 Beverage tastings by distributors, craft distilleries, and vendors.—

(1) A licensed distributor of spirituous beverages, a craft distillery as defined in s. 565.03, or any vendor~~,~~ is authorized to conduct spirituous beverage tastings upon any licensed premises authorized to sell spirituous beverages by package or for consumption on premises without being in violation of s. 561.42, provided that the conduct of the spirituous beverage tasting shall be limited to and directed toward the general public of the age of legal consumption.

(2) Craft distilleries may conduct tastings and sales of distilled spirits produced by the craft distilleries at Florida fairs, trade shows, farmers markets, expositions, and festivals. The division shall issue permits to craft distilleries for such tastings and sales. A craft distillery must pay all entry fees and must have a distillery representative present during the event. The permit is limited to the duration and physical location of the event.

Section 4. This act shall take effect July 1, 2021.

COMMERCE COMMITTEE

HB 737 by Rep. DiCeglie
Craft Distilleries

AMENDMENT SUMMARY
March 24, 2021

Amendment 1 by Rep. DiCeglie (Line 254):

The amendment requires a craft distillery to keep records of all alcoholic beverages received from another manufacturer, broker, sales agent, or importer, for a period of 3 years, as required by s. 561.55, F.S.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Commerce Committee

Representative DiCeglie offered the following:

Amendment (with title amendment)

Between lines 254 and 255, insert:

(6) A craft distillery shall keep complete and accurate records of all alcoholic beverages received from any point within or outside the state from another manufacturer, or from a broker or sales agent or importer, including any delivery invoice or other record of the common or contract carrier of freight making the delivery of such alcoholic beverages. The records shall be kept and maintained for a period of 3 years, as required by s. 561.55.

T I T L E A M E N D M E N T

Remove line 36 and insert:
making technical changes; requiring the keeping of records for alcoholic beverages received from specified persons; amending s. 565.17, F.S.;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1059 Construction Permits
SPONSOR(S): Regulatory Reform Subcommittee, Robinson, W.
TIED BILLS: **IDEN./SIM. BILLS:** SB 1788

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N, As CS	Brackett	Anstead
2) Commerce Committee		Brackett	Hamon

SUMMARY ANALYSIS

The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.

Current law requires local governments to enforce the Building Code and issue building permits. Current law also requires state agencies, state universities, Florida College System institutions, and public school districts to enforce the Building Code in certain situations. Each local government entity may provide a schedule of reasonable fees in order to defer the costs of inspection and enforcement of the Building Code. It is unlawful to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit.

A development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.

The bill:

- Requires local governments to review additional information for an application for a development permit or development order within a certain time-period.
- Clarifies and requires local enforcement agencies to:
  - post each building permit application, **including** a list of any required attachments, such as drawings or plans, on their websites;
  - allow applicants to submit completed building permit applications electronically **including** any required payments and attachments, such as plans;
  - post the current status of every received building permit application on their website; and
  - post their procedures for reviewing, processing, and approving building permit applications on their websites.
- Requires government entities, which enforce the Building Code, that fail to meet current established deadlines for reviewing building permit applications to reduce the fee for such permits for every business day that they miss the deadline, unless the applicant agrees to a longer period.
- Requires government entities that deny a building permit application for a single-family residential dwelling to allow the applicant 10 business days to correct the application.
- Prohibits government entities from requiring a copy of a contractor's contract with owners, subcontractors, or suppliers in order to obtain a building permit for projects on commercial property.
  - This does not apply to projects for improvements owned or leased by a government entity.

The bill may have an indeterminate fiscal impact on state and local government. *See* Fiscal Comments.

The bill provides for an effective date of October 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Community Planning Act

Adopted in 1985, the Local Government Comprehensive Planning and Land Development Regulation Act,[1] also known as Florida's Growth Management Act, was significantly revised in 2011, becoming the Community Planning Act.[2] The Community Planning Act governs how local governments create and adopt their local comprehensive plans.

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future land development of the area and reflect community commitments to implement the plan. The intent of the Act is that local governments manage growth through comprehensive land use plans that facilitate adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services.[3] A housing element is required as part of every comprehensive plan in the state. Among other things, the housing element must address "the creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction."[4]

Municipalities established after the effective date of the Community Planning Act must adopt a comprehensive plan within three years after the date of incorporation.[5] The county comprehensive plan controls until a municipal comprehensive plan is adopted.[6]

The comprehensive plan is implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other housing-related ordinances, that are consistent with and implement their adopted comprehensive plan.[7]

Issuing Development Orders and Permits – Current Situation

Under the Community Planning Act, a development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances.[8] A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[9]

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.[10]

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues.[11] If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant can request the county or municipality proceed to process the application for approval or denial.[12] If denied, the county or municipality is

[1] *See* ch. 85-55, s. 1, Laws of Fla.
[2] *See* ch. 2011-139, s. 17, Laws of Fla.
[3] S. 163.3161(4), F.S.
[4] S. 163.3177(6)(f)1.g., F.S.
[5] S. 163.3167(3), F.S.
[6] *Id*.
[7] S. 163.3202, F.S.
[8] S. 163.3164(16), F.S.
[9] *See* ss. 125.022, 163.3164(15), and 166.033, F.S.
[10] Ss. 125.022(1) and 166.033(1), F.S.
[11] *Id.*
[12] *Id.*

required to give written notice to the applicant and must provide reference to the applicable legal authority for the denial of the permit.[13]

Prior to 2019, there was no specified timeframes provided in current statute for reviewing an application for a development permit, development order, or additional information requested by a county or municipality.[14]

In 2019, the Legislature imposed requirements and time limits for a county or municipality to review an application for a development permit or development order, not including building permit applications, and provided procedures for addressing deficiencies in an application.[15]

Within 30 days of receiving an application for a development permit or development order, a county or municipality must review the application and issue a letter to the applicant indicating that the application is complete or specify the deficiencies within 30 days after receiving the application.[16] If the county or municipality identifies deficiencies, the applicant has 30 days to submit the required additional information.[17]

Once an application is deemed complete, a county or municipality must approve, approve with conditions, or deny the application within 120 days or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing.[18]

Current law specifies how long an applicant has to submit additional information to a local government. However, current law does not specify how long a local government has to review the additional information and determine if the application is complete or still deficient.

Issuing Development Orders and Permits – Effect of the Bill

The bill provides that if a county or municipality makes a request for additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within **30 days** of receiving the information, if the request is the county or municipality's **first request**.
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within **10 days** of receiving the information, if the request is the county or municipality's **second request**.
- Deem the application complete within **10 days** of receiving the information or proceed to process the application for approval or denial unless the applicant waived the county or municipality's time limitations in writing, if the request is the county or municipality's **third request**.

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.[19]

[13] Ss. 125.022(2) and 166.033(2), F.S.
[14] Ss. 125.022(1) and 166.033(1), F.S. (2018).
[15] *See* House Analysis of 2019 House Bill 7103 (Jul. 1, 2019).
[16] Ss. 125.022(1) and (2), and 166.033 (1) and (2), F.S.
[17] *Id.*
[18] *Id.*
[19] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs,* p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Feb. 15, 2021).

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[20] The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.[21]

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. [22]

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,[23] the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.[24]

Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.[25] Every local government must enforce the Florida Building Code and issue building permits.[26]

State universities, Florida College System institutions, and public school districts enforce the Building Code for their building projects, including conducting plan review and inspections. State universities, Florida College System institutions, and public school districts must use or contract with licensed building officials, inspectors, and plan examiners, and may elect to use a local government's building department to review plans and perform inspections.[27]

Current law also provides that state agencies may enforce the Building Code if current law specifically authorizes them to do so, unless they have delegated responsibility to another public entity.[28] Current law provides that:[29]

- The Department of Corrections and the Department of Juvenile Justice, and the Department of Management Services (DMS) enforces the construction regulations relating to correctional facilities under their jurisdiction.
- The DMS enforces the construction regulations for the Governor's Mansion and its grounds, the Capitol, and the Capitol complex.

[20] *Id.*; DBPR, *Building Code Information System*, https://floridabuilding.org/c/default.aspx# (last visited on Feb. 15, 2021).
[21] Florida Building Commission Homepage, https://floridabuilding.org/c/default.aspx (last visited Feb. 21, 2021).
[22] *See* S. 553.72(1), F.S.
[23] The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, https://www.iccsafe.org/about/who-we-are/ (last visited Feb. 21, 2021).
[24] Ss. 553.73, and 553.74, F.S.
[25] S. 553.72, F.S.
[26] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[27] S. 553.80(6), F.S.
[28] Ss. 255.31(1), and 553.80(1), F.S.
[29] *Id.*

- The DBPR enforces the construction regulations relating to elevator equipment under their jurisdiction.
- The Turnpike Enterprise, which is part of the Department of Transportation, enforces the construction regulations for toll collection facilities under its jurisdiction.
- The Department of Children and Families (DCF) in conjunction with the Agency for Health Care Administration (ACHA) enforces construction regulations relating to secure mental health treatment facilities under DCF's jurisdiction.
- The AHCA also reviews plans and surveys construction of hospitals, nursing homes, ambulatory surgical centers, and Intermediate Care Facilities for the Developmentally Disabled.

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[30] A building permit is not valid until the fees for the permit have been paid.[31]

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.[32] A building official is a local government employee or a person contracted by a government entity who supervises building code activities, including plans review, enforcement, and inspection.[33] Any construction work that requires a building permit also requires plans and inspections by the building official to ensure the work complies with the Building Code.[34]

Each government entity may provide a schedule of reasonable fees in order to defer the costs of inspection and enforcement of the Building Code. The basis for a local government's fee structure must relate to the level of service provided by the local government. Fees charged must be consistently applied. Each local government must post its permit and inspection fee schedule and a utilization report[35] on its website.[36]

A local government's permit and inspection fees must be used solely for carrying out that local government's responsibilities in enforcing the Building Code. This includes:[37]

- the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing;
- building code enforcement;
- fire inspections associated with new construction; and
- training costs associated with the enforcement of the Building Code and enforcement action pertaining to unlicensed contractor activity to the extent not funded by other user fees.

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Florida Building Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.[38]

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code.

[30] *See* Ss. 125.56(4)(a) and 553.79(1), F.S.
[31] S. 109.1 of the Seventh edition of the Florida Building Code (Building).
[32] S. 468.603(2), F.S; S. 202 of the Seventh edition of the Florida Building Code (Building).
[33] S. 468.603(2), F.S.; S. 202 of the Seventh edition of the Florida Building Code (Building).
[34] Ss. 107, 110.1, and 110.3 of the Seventh edition of the Florida Building (Building).
[35] The utilization report must include the local government's direct and indirect costs for enforcing the Building. S. 553.80(7), F.S.
[36] Ss. 125.56(2) and (4), 166.222, and 553.80(7), F.S.
[37] S. 553.80(7), F.S.
[38] S. 553.721, F.S.

The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.[39]

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code.[40]

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. Delays in the completion of a construction project may:[41]

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:[42]

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue by creating local construction jobs and other indirect jobs; and
- Encourage economic development by having an efficient permit system.

List of Required Items for Applications and Electronic Submission of Applications – Current Situation

A local enforcement agency is an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the Building Code.[43]

Current law requires local enforcement agencies to post each type of building permit on their website.[44] Current law also requires local enforcement agencies to allow applicants to submit applications

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[39] S. 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. S. 489.1401(2), F.S.

[40] Ss. 468.631, and 553.721, F.S.

[41] City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Feb. 22, 2021); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

[42] *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf (last visited Feb. 24, 2021).

[43] S. 553.71(5), F.S.

[44] Ss. 125.56(4)(b) and 553.79(1)(b), F.S.

electronically, except owners who are acting as contractor under the owner-builder exemption.[45] Accepted methods of electronic submission include, but are not limited to:[46]

- E-mail submission of applications in PDF format;
- Submission of applications through an electronic fill-in form available on the building department's website; or
- Through a third-party submission management software.

However, it is not clear if current law requires local enforcement agencies to:

- Post a list or identify other items required as part of the application for each type of building permit on their websites;
- Allow applicants to electronically submit items required as part of a building permit application including payments, attachments, or drawings; or
- Post the status of building permit applications on their websites.

Some local governments list the items required as part of an application, allow applicants to electronically submit items required as part of an application, and post the status of building permit applications on their websites, while others do not.[47]

Proponents argue that posting a list containing all the required information for each type of building permit and the status of every received application saves time by reducing phone calls and emails to building department staff. It also reduces the number of applications that are denied due to misunderstanding about what materials and information must be provided.[48]

Proponents argue that allowing applicants to submit applications electronically, including all required items, saves time and money for builders and developers by shortening the turn-around time for processing most building permits, and by preventing them from having to travel to and from a building department during business hours to drop off the required items.[49]

They also argue that it helps building departments by reducing the cost of printing documents, eliminating archiving costs, easing the burden of managing paper documents, and consolidates the plan review process by having documents stored on a network server that is available to multiple departments and employees.[50]

Building Departments note that the cost to post the list of required items and the status of received building permit applications, and the cost to transition from paper documents to electronic documents is

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[45] Current law requires property owners who are acting as a contractor under the owner-builder exemption to personally appear at a local enforcement agency to sign the building permit. Ss. 489.103(7), and 489.503(7), F.S.
[46] Ss. 125.56(4)(b) and 553.79(1)(b), F.S.
[47] City of Miramar, *Building, Permits & Inspections*, https://www.miramarfl.gov/150/Building-Permits-Inspections (last visited Feb. 25, 2021); City of Orlando, *Permits & Inspections*, https://www.orlando.gov/Building-Development/Permits-Inspections (last visited Feb. 24, 2021); Union County, *Building Department*, https://unioncounty-fl.gov/building-department/ (last visited Feb. 25, 2021); City of Crestview, *Building Permits & Inspections*, http://www.cityofcrestview.org/161/Building-Permits-Inspections (last visited Feb. 25, 2021).
[48] Ryan Meres, Seven Keys to Alleviating Permitting Pain, Builder (Jul. 23, 2015) https://www.builderonline.com/building/regulation-policy/seven-keys-to-alleviating-permitting-pain_o (last visited Feb. 24, 2021); E-Gov Link, *How to Streamline your Local Government Permitting Process*, (Aug. 28, 2019) https://www2.egovlink.com/how-to-streamline-your-local-government-permitting-process/ (last visited Feb. 24, 2021)
[49] Building Officials Association of Florida, Florida Engineering Society, AIA Florida, *Building Department Guide to Creating and Processing Electronic Construction Documents*, http://www.aiafla.org/upload_documents/BuildingDepartmentGuidetoCreatingandProcessingElectronicDocuments.pdf (last visited Feb. 25, 2021); *See also* The Florida Channel, 1/27/ 2021 House Regulatory Reform Subcommittee, https://thefloridachannel.org/videos/1-27-21-house-regulatory-reform-subcommittee/ (last visited Feb. 19, 2021).
[50] *Id.*

expensive and it is not easy or quick.[51] Additionally a building department may have to devote limited resources to updating the list of required items and the status of received building permit applications.[52]

List of Items Required for Applications and Electronic Submission of Applications – Effect of the Bill

The bill clarifies that local enforcement agencies must:

- Post each type of building permit application on their website, **including** a list of all required attachments, drawings, and any other requirements that are required for each type of application.
- Post the status of received building permit applications online, and update the status.
    - A local enforcement agency does not have to post the status of a received building permit application if it has issued a permit for the application.
- Allow building permit applicants to electronically submit applications, **including** all attachments, payments, drawings, and any other requirements that are required as part of the application.
    - Applications, including attachments, payments, drawings, and any other requirements or parts that are required as part of the application, may also be submitted in person at the discretion of the building official.

Process for Reviewing Building Permits – Current Situation

Current law requires local enforcement agencies to enforce the Building Code and issue building permits. However, current law does not specify how local enforcement agencies must review and process building applications. Instead, current law leaves it up to local enforcement agencies to determine how they want to process, receive, and approve building permit applications.

According to testimony offered during the January 27, 2021, meeting of the Florida House of Representatives Regulatory Reform Subcommittee, there are generally two different models for how building departments are setup. One model is the separated review process, which is a process where an application goes to different departments for review such as the zoning department and the building department. The second model is a combined review process, which operates as a one-stop shop for all development review approval.[53] However, local enforcement agencies operate differently from each other, and there is no uniform system for processing, receiving, or approving building permit applications.[54]

Proponents argue that requiring building departments to list their procedures for receiving, processing, and approving building permit applications on their website helps developers and residents by letting them know the permitting process from the beginning. It reduces conflicts and delays in application review due to misunderstanding about a building department's procedures. It also helps new staff by letting them know what their responsibilities are in the permitting process.[55]

Building departments note that a building department may have to devote limited resources to creating the list of its procedures for receiving, processing, and approving building permit applications on its website. Additional resources may also be needed to update the list to ensure the listed procedures are current and up to date.[56]

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[51] *Id.*; The Community Development Director for the City of Auburndale testified that the cost for them to purchase the software necessary for the switch to electronic documents cost $90,000. *See* The Florida Channel, 1/27/ 2021 House Regulatory Reform Subcommittee, https://thefloridachannel.org/videos/1-27-21-house-regulatory-reform-subcommittee/ (last visited Feb. 19, 2021).
[52] The Massachusetts Association of Regional Planning Agencies, *A Best Practices for Streamlined Local Permitting*, (Nov. 30, 2007), http://www.pvpc.org/sites/default/files/BEST%20PRACTICES%20GUIDE_0.pdf (last visited Feb. 24, 2021).
[53] *See* The Florida Channel, 1/27/ 2021 House Regulatory Reform Subcommittee, https://thefloridachannel.org/videos/1-27-21-house-regulatory-reform-subcommittee/ (last visited Feb. 19, 2021).
[54] *Id.*
[55] The Massachusetts Association of Regional Planning Agencies *supra* note 52.
[56] *Id.*

Process for Reviewing Building Permits – Effect of the Bill

The bill requires local enforcement agencies to post their procedures for processing, reviewing, and approving submitted building permit applications on their websites.

Time-Period to Review Building Permit Applications – Current Situation

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:[57]

- accessory structure;
- alarm permit;
- nonresidential buildings less than 25,000 square feet;
- electric;
- irrigation permit;
- landscaping;
- mechanical;
- plumbing;
- residential units other than a single family unit;
- multifamily residential not exceeding 50 units;
- roofing;
- signs;
- site-plan approvals and subdivision plats not requiring public hearings or public notice;
- lot grading and site alteration associated with the permit application;
- master building permits; and
- single-family residential buildings.

When a local government receives an application for one of the above building permits, except master building permits and single-family residential buildings, it must:[58]

- Inform the applicant within 10 days of receiving the application, what information, if any, is needed to complete the application.
    - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- Notify the applicant within 45 days of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
    - If additional information is needed the local government must specify what additional information is necessary.
    - The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information.
- Approve, approve with conditions, or deny the application within 120 days following receipt of the completed application.
    - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.[59]

[57] S. 553.792(2), F.S.
[58] S. 553.792(1), F.S.
[59] *Id.*

If a local government receives a complete master building permit application, it must approve or deny the application within 120 days of receiving the completed application, unless the applicant agrees to a longer period.[60]

If any government entity with authority to enforce the Building Code receives an application for a building permit for a single-family residential dwelling, it must issue the permit within 30 business days of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.[61]

Current law provides time-periods for when government entities must review certain building permit applications. However, current law does not provide any penalty if a government entity fails to comply with the deadlines established by current law.

Time-Period to Review Building Permit Applications – Effect of the Bill

The bill requires local governments to reduce a permit fee for **any** building permit application, including for single-family residential dwellings, by 10 percent of the original permit fee for each business day that a local government fails to meet the current statutory time-period for reviewing a building permit application or a time-period established by the local government.

- A local government does not have to reduce the permit fee if the local government and applicant agree to an extension of time.

A government entity does not have to reduce the fee for a **single-family residential dwelling building permit**, if:

- it provides written notice to the applicant, by email or USPS mail within 30 business days of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code, or the government entity's laws or ordinances.

An applicant has 10 business days to address the reasons specified in the government entity's notice. If the applicant submits revisions to the government entity within 10 business days of receiving the notice, the government entity must approve or deny the permit within 10 business days of receiving the applicant's revisions.

If a government entity fails to approve or deny the permit within 10 business days of receiving the applicant's revisions, it must:

- reduce the permit fee by 20 percent of the original permit fee for the first business day that it fails to meet the deadline; and
- an additional 10 percent of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the DBPR surcharges for funding the Building Commission, the BCAIB, and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.

Required Information in Building Permit Application – Current Situation

[60] S. 553.794(5)(c), F.S. A master building permit is intended for builders who expect to construct identical single- or two- family dwellings or townhomes. Once a builder obtains a master building permit, he or she is not required to obtain a new permit for single- two-family dwelling or townhome as long as the dwelling or townhome is built to the specifications in the master building permit. *See* 553.794, F.S.

[61] S. 553.79(14), F.S.

To obtain a permit, an applicant must complete an application for the proposed work on a form furnished by the government entity. The form must include the following information:[62]

- The name and address of the owner of the property;
- The name and address of the contractor;
- A description sufficient to identify the property to be improved, including the property's address and legal description;
- The name and address of the bonding company, if any;
- The name and address of the architect/engineer, if any;
- The name and address of the mortgage company, if any; and
- The number or identifying symbol assigned to the building permit by the issuing authority.

In addition to the information that must be in the application, a government entity may require any additional information be included in the application.[63]

Some local governments are requiring commercial contractors to include their contracts with private owners in an application for a building permit. The industry believes that local governments use such contracts to determine construction costs and construction value.[64] These contracts may contain private proprietary information, and after local governments request and obtain such documents, they may become public records available for anyone to obtain upon request.[65]

Required Information in Building Permit Application -- Effect of the Bill

The bill prohibits a government entity from requiring a contract between an owner and a contractor or a contract between a contractor and a subcontractor or material supplier as a condition to apply for or obtain a building permit for construction work on a commercial property.

However, this does not apply to any construction projects for improvements that are owned or leased by a government entity.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.022, F.S., relating to development permits and orders issued by counties.

Section 2: Amends s. 125.56, F.S., requiring counties to allow submission of certain documents and list certain things on their websites.

Section 3: Amends s. 166.033, F.S., relating to development permits and orders issued by municipalities.

Section 4: Amends s. 553.79, F.S., requiring local governments to allow submission of certain documents, list certain things on their websites, and reduce certain building permit fees.

Section 5: Amends s. 553.792, F.S., requiring local governments to reduce certain building permit fees.

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[62] Ss. 713.135(5) and (6), F.S.

[63] *Id.*

[64] *See* The Florida Channel, *1/27/ 2021 House Regulatory Reform Subcommittee*, https://thefloridachannel.org/videos/1-27-21-house-regulatory-reform-subcommittee/ (last visited Feb. 19, 2021). (According to testimony offered during the January 27, 2021, meeting of the Florida House of Representatives Regulatory Reform Subcommittee, many local governments use the cost of construction as a factor for determining the amount of a fee for a building permit.)

[65] Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record made or received in connection with official business of any public body, including counties, municipalities, and districts. Current law does not contain an exemption from Florida's public records laws for proprietary business information included in a building permit application. *See generally*, ch. 119. F.S.

Section 6: Amends s. 553.794, F.S., requiring local governments to reduce certain building permit fees.

Section 7. Amends s. 713.135, F.S., prohibiting local governments from requiring contracts in certain applications for building permits.

Section 8. Providing an effective date of October 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact by decreasing the time it takes to obtain a building permit, which may decrease the cost and time to complete projects.

D. FISCAL COMMENTS:

The amount of permit fees that are refunded by local governments for failing to review a permit application within a certain time-period is indeterminate. However, any amount will likely be minimal. It is unclear if refunding a percentage of permit fees will have an impact on the surcharges received by DBPR. However, any impact will likely be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires local governments to take actions that require expenditures of money by requiring local governments to allow electronic submission of certain building permit application documents, and requiring them to post the current status of received building permit applications, to list the required documents to be included with a permit application, and to list their procedures for processing applications on their website. This may result in additional expenditures to comply with the statute. However, local building departments are permitted by state law to collect building fees that cover the cost of their expenses. An exemption may apply because the fiscal impact is likely to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 2, 2021, the Regulatory Reform Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute:

- Requires local governments to review additional information for an application for a development permit or development order within a certain time-period.
- Clarifies and requires local enforcement agencies to:
  - post each building permit application, including a list of any required attachments, such as drawings or plans, on their websites;
  - allow applicants to submit completed building permit applications electronically including any required payments and attachments, such as plans;
  - post the current status of every received building permit application on their website; and
  - post their procedures for reviewing, processing, and approving building permit applications on their websites.
- Requires government entities, which enforce the Building Code, that fail to meet current established deadlines for reviewing building permit applications to reduce the fee for such permits for every business day that they miss the deadline, unless the applicant agrees to a longer period.
- Requires government entities that deny a building permit application for a single-family residential dwelling to allow the applicant 10 business days to correct the application.
- Prohibits government entities from requiring a copy of a contractor's contract with owners, subcontractors, or suppliers in order to obtain a building permit for projects on commercial property.
  - This does not apply to projects for improvements owned or leased by a government entity.

The staff analysis has been updated to reflect the committee substitute.

A bill to be entitled

An act relating to the construction permits; amending s. 125.022, F.S.; revising the requirements for when a county may request certain information; amending s. 125.56, F.S.; requiring a county that issues building permits to post certain building permit information on its website; authorizing all components to a completed application to be submitted electronically or in person; amending s. 166.033, F.S.; revising the requirements for when a municipality may request certain information; amending s. 553.79, F.S.; requiring a local enforcement agency to post certain building permit information on its website; authorizing all components to a completed application to be submitted electronically or in person; requiring a local enforcement agency to reduce a building permit fee by a specified percentage for failing to meet certain deadlines; providing an exception; requiring the reduction of a building permit fee to be based on the original amount of such fee; requiring certain surcharges to be recalculated under certain conditions; amending ss. 553.792 and 553.794, F.S.; requiring a local government or local building department, respectively, to reduce a building permit fee or master building permit fee, respectively, by a

specified percentage for failing to meet certain deadlines; providing exceptions; requiring certain surcharges to be recalculated under certain conditions; making technical changes; amending s. 713.135, F.S.; prohibiting an authority that issues a building permit from requiring an applicant to provide specified contracts as part of an application for certain construction; providing applicability; providing an effective date.

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

Section 1. Subsection (2) of section 125.022, Florida Statutes, is amended to read:

125.022 Development permits and orders.—

(2)(a) When reviewing an application for a development permit or development order that is certified by a professional listed in s. 403.0877, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.

(b) If a county makes a request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the county must review the application for completeness and issue a letter indicating that all required information has been submitted or

specify with particularity any areas that are deficient within 30 days after receiving the additional information.

(c) If a county makes a second request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the county must review the application for completeness and issue a letter indicating that all required information has been submitted or specify with particularity any areas that are deficient within 10 days after receiving the additional information.

(d) Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If a county makes a third request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the county must deem the application complete within 10 days after receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the county's limitation in writing as described in paragraph (a).

(e) Except as provided in subsection (5), if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application for approval or denial.

Section 2. Paragraph (b) of subsection (4) of section 125.56, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

125.56 Enforcement and amendment of the Florida Building Code and the Florida Fire Prevention Code; inspection fees; inspectors; etc.—

(4)

(b) A county that issues building permits shall post each type of building permit application, including a list of all required attachments, drawings, or other requirements for each type of application, on its website. A county must post and update the status of every received application on its website until the issuance of the building permit. Completed applications, including payments, attachments, drawings, or other requirements or parts of the completed permit application, must be able to be submitted electronically to the county building department. Accepted methods of electronic submission include, but are not limited to, e-mail submission of applications in Portable Document Format or submission of applications through an electronic fill-in form available on the building department's website or through a third-party submission management software. Completed applications, including payments, attachments, ~~or~~ drawings, or other requirements or parts ~~required as part~~ of the completed permit application, may also be submitted in person in a nonelectronic

format, at the discretion of the building official.

(f) A county that issues building permits must post its procedures for processing, reviewing, and approving submitted building permit applications on its website.

Section 3. Subsection (2) of section 166.033, Florida Statutes, is amended to read:

166.033 Development permits and orders.—

(2)(a) When reviewing an application for a development permit or development order that is certified by a professional listed in s. 403.0877, a municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.

(b) If a municipality makes a request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the municipality must review the application for completeness and issue a letter indicating that all required information has been submitted or specify with particularity any areas that are deficient within 30 days after receiving the additional information.

(c) If a municipality makes a second request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the municipality must review the application for completeness and issue a letter indicating that all required

information has been submitted or specify with particularity any areas that are deficient within 10 days after receiving the additional information.

(d) Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If a municipality makes a third request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the municipality must deem the application complete within 10 days after receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the municipality's limitation in writing as described in paragraph (a).

(e) Except as provided in subsection (5), if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant's request, shall proceed to process the application for approval or denial.

Section 4. Paragraph (b) of subsection (1) and subsection (14) of section 553.79, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to read:

553.79 Permits; applications; issuance; inspections.—

(1)

(b) A local enforcement agency shall post each type of

building permit application, including a list of all required attachments, drawings, or other requirements for each type of application, on its website. A local enforcement agency must post and update the status of every received application on its website until the issuance of the building permit. Completed applications, including payments, attachments, drawings, or other requirements or parts of the completed permit application, must be able to be submitted electronically to the appropriate building department. Accepted methods of electronic submission include, but are not limited to, e-mail submission of applications in Portable Document Format or submission of applications through an electronic fill-in form available on the building department's website or through a third-party submission management software. Completed applications, including payments, attachments, ~~or~~ drawings, or other requirements or parts ~~required as part~~ of the completed permit application, may also be submitted in person in a nonelectronic format, at the discretion of the building official.

(d) A local enforcement agency must post its procedures for processing, reviewing, and approving submitted building permit applications on its website.

(14) A building permit for a single-family residential dwelling must be issued within 30 business ~~working~~ days after receiving the permit ~~of~~ application ~~therefor~~ unless ~~unusual circumstances require a longer time for processing the~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

~~application or unless~~ the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

(a) If a local enforcement agency fails to issue a building permit for a single-family residential dwelling within 30 business days after receiving the permit application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10 percent reduction shall be based on the original amount of the building permit fee.

(b) A local enforcement agency does not have to reduce the building permit fee if it provides written notice to the applicant, by e-mail or United States Postal Service, within 30 business days after receiving the permit application that specifically states the reasons why the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances.

(c) The applicant has 10 business days after receiving the written notice to address the reasons specified by the local enforcement agency and submit revisions to correct the permit application. If the applicant submits revisions within 10 business days after receiving the written notice, the local enforcement agency has 10 business days after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer period in writing. If the local

enforcement agency fails to issue or deny the building permit within 10 business days after receiving the revisions, it must reduce the building permit fee by 20 percent for the first business day that it fails to meet the deadline unless the applicant agrees to a longer period in writing. For each additional business day, but not to exceed 5 business days, that the local enforcement agency fails to meet the deadline, the building permit fee must be reduced by an additional 10 percent. Each reduction shall be based on the original amount of the building permit fee.

(d) If any building permit fees are refunded under this subsection, the surcharges provided in s. 468.631 or s. 553.721 must be recalculated based on the amount of the building permit fees after the refund.

Section 5. Section 553.792, Florida Statutes, is amended to read:

553.792 Building permit application to local government.—

(1)(a) Within 10 days of an applicant submitting an application to the local government, the local government shall advise the applicant what information, if any, is needed to deem the application properly completed in compliance with the filing requirements published by the local government. If the local government does not provide written notice that the applicant has not submitted the properly completed application, the application shall be automatically deemed properly completed and

accepted. Within 45 days after receiving a completed application, a local government must notify an applicant if additional information is required for the local government to determine the sufficiency of the application, and shall specify the additional information that is required. The applicant must submit the additional information to the local government or request that the local government act without the additional information. While the applicant responds to the request for additional information, the 120-day period described in this subsection is tolled. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a force majeure ~~major~~ or other extraordinary circumstance. The local government must approve, approve with conditions, or deny the application within 120 days following receipt of a completed application.

(b) If a local government fails to meet a deadline provided in paragraph (a), it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10 percent reduction shall be based on the original amount of the building permit fee, unless the parties agree to an extension of time.

(2)(a) The procedures set forth in subsection (1) apply to the following building permit applications: accessory structure; alarm permit; nonresidential buildings less than 25,000 square feet; electric; irrigation permit; landscaping; mechanical;

plumbing; residential units other than a single family unit; multifamily residential not exceeding 50 units; roofing; signs; site-plan approvals and subdivision plats not requiring public hearings or public notice; and lot grading and site alteration associated with the permit application set forth in this subsection. The procedures set forth in subsection (1) do not apply to permits for any wireless communications facilities or when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications.

(b) If a local government has different timeframes than the timeframes set forth in subsection (1) for reviewing building permit applications described in paragraph (a), the local government must meet the deadlines established by local ordinance. If a local government does not meet an established deadline to approve, approve with conditions, or deny an application, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10 percent reduction shall be based on the original amount of the building permit fee, unless the parties agree to an extension of time. This paragraph does not apply to permits for any wireless communications facilities.

(3) If any building permit fees are refunded under this section, the surcharges provided in s. 468.631 or s. 553.721 must be recalculated based on the amount of the building permit fees after the refund.

Section 6. Paragraph (c) of subsection (5) of section 553.794, Florida Statutes, is amended to read:

553.794 Local government residential master building permit program.—

(5) MASTER BUILDING PERMIT APPLICATION APPROVAL PROCESS.—

(c) The local building department must approve or deny a master building permit application within 120 days after the local building department receives a completed application, unless the applicant agrees to a longer period. If a local building department fails to approve or deny a master building permit application within 120 days after receiving the completed permit application, it must reduce the master building permit fee by 10 percent for each business day that it fails to meet the deadline, unless the applicant agrees to a longer time period. Each 10 percent reduction shall be based on the original amount of the master building permit fee. If any master building permit fees are refunded, the surcharges provided in s. 468.631 or s. 553.721 must be recalculated based on the amount of the master building permit fees after the refund.

Section 7. Subsections (6) and (7) of section 713.135, Florida Statutes, are renumbered as subsections (7) and (8), respectively, and a new subsection (6) is added to that section to read:

713.135 Notice of commencement and applicability of lien.—

(6) An authority that issues building permits may not

require an applicant to provide a direct contract or a contract between a contractor and any other lienor as a condition of the application for, or processing or issuance of, a building permit for the construction of improvements or for the alteration or repair of improvements on or to commercial property. This subsection does not apply to the construction of improvements or the alteration or repair of improvements owned or leased by the federal government, the state or any county, city, or political subdivision thereof, or other public authority.

Section 8. This act shall take effect October 1, 2021.

COMMERCE COMMITTEE

HB 1059 by Rep. Robinson, W.
Construction Permits

AMENDMENT SUMMARY
March 24, 2021

Amendment 1 by Rep. Robinson, W. (line 189):
The amendment:

- Clarifies that notices must state that a building permit applicant has 10 business days to remedy deficiencies in their application or it will be denied.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Commerce Committee

Representative Robinson, W. offered the following:

Amendment

Remove lines 189-192 and insert:

business days after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Florida Building Code or the enforcing agency's laws or ordinances. The written notice must also state that the applicant has 10 business days after receiving the written notice to submit revisions to correct the application and that failure to correct the application within 10 business days will result in denial of the application.

HB 1143

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1143 Funding of Aviation Development Projects
SPONSOR(S): Grall
TIED BILLS: **IDEN./SIM. BILLS:** SB 1466

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	16 Y, 0 N	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	12 Y, 0 N	Davis	Davis
3) Commerce Committee		Johnson	Hamon

SUMMARY ANALYSIS

Under federal regulations, commercial service airports are categorized into large hub, medium hub, small hub, and non-hub airports, based upon the number of passenger boardings in a given year.

Under Florida law, when federal funds are not available, the Department of Transportation (DOT) may fund up to 80 percent of the costs for certain projects at airports that do not have any scheduled commercial service. DOT may only fund up to 50 percent of the project cost if the airport has scheduled commercial service.

The bill authorizes DOT to fund up to 80 percent of the costs for eligible airport projects, with a 20 percent local match at all publicly-owned, public-use general aviation airports and commercial service airports not classified as large hub, medium hub, or small hub airports by the Federal Aviation Administration (FAA).

Under the bill, eligible projects at the following commercial service airports could receive DOT funding of up to 80 percent of the project costs with a 20 percent local match: Daytona Beach International, Gainesville Regional, Melbourne International, Tallahassee International, and Vero Beach Regional Airports.

The bill has an indeterminate impact on state government expenditures, though all costs are limited to available funding within the DOT's Work Program. See Fiscal Analysis for details.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Airport Oversight

At the federal level, the Federal Aviation Administration (FAA) is responsible for planning and developing a safe and efficient national airport system. This includes all programs related to airport safety and inspections and standards for airport design, construction, and operation. Federal law requires each commercial service airport to operate under a federal certificate and comply with federal aviation requirements. The FAA is responsible for national airport planning and environmental and social requirements and establishes policies related to airport rates and charges, compliance with grant assurances, and airport privatization.[1]

In Florida, the Department of Transportation (DOT) is responsible for planning airport systems and promoting the further development and improvement of airport facilities.[2] The owner or lessee of a proposed public airport[3] must receive DOT approval before site acquisition, construction, or establishment of a public airport facility.[4] DOT is also responsible for licensing public airport facilities before the operation of aircraft to or from the facility and must inspect such facilities prior to licensing or license renewal.[5] Florida law authorizes local governments to establish and operate airports[6] and governs airport zoning and land use issues.[7]

Airport Categories

Under federal regulations, a commercial service airport is defined as a public airport that the FAA determines has at least 2,500 commercial passenger boardings each year and is receiving scheduled passenger service.[8] A large hub airport is a commercial service airport that has at least 1 percent of the commercial passenger boardings in United States.[9] A medium hub airport is a commercial service airport that has at least 0.25 percent but less than 1 percent of the commercial passenger boardings in the United States.[10] A small hub airport is a commercial service airport that has at least 0.05 percent but less than 0.25 percent of the commercial passenger boardings in the United States.[11] A non-hub airport has less than 0.05 percent of all commercial passenger boardings in the United States but has more than 10,000 passenger boardings.[12]

[1] *See* Federal Aviation Administration, *Airports*, https://www.faa.gov/about/office_org/headquarters_offices/arp/ (last visited on March 5, 2021).
[2] S. 332.001. F.S.
[3] S. 330.27(6), F.S. For purposes of DOT approval and licensure, the term "public airport" means an airport, publicly or privately owned, which is open for use by the public.
[4] S. 330.30(1), F.S.
[5] S. 330.30(2), F.S.
[6] *See* Ch. 332, F.S.
[7] *See* Ch. 333, F.S.
[8] 49 U.S.C. § 47102(7).
[9] 49 U.S.C. § 47102(11). Florida's large hub airports are Miami International, Orlando International, Ft. Lauderdale/Hollywood International, and Tampa International.
[10] 49 U.S.C. § 47102(13). Florida's medium hub airports are Southwest Florida International (Ft. Myers), Palm Beach International, and Jacksonville International.
[11] 49 U.S.C. § 47102(25). Florida's small hub airports are Orlando Sanford International, St. Pete-Clearwater International, Pensacola International, Sarasota/Bradenton International, Northwest Florida-Beaches International (Panama City), Punta Gorda, Destin-Ft. Walton Beach, and Key West.
[12] 49 U.S.C. § 47102(14). Florida's non-hub airports are Tallahassee International, Daytona Beach International, Melbourne International, and Gainesville Regional.

Nonprimary airports are commercial service airports that have at least 2,500 and no more than 10,000 passenger boardings each year.[13] Primary airports are commercial service airports that have more than 10,000 passenger boardings each year.[14]

Federal Airport Funding

At the federal level, airports receive federal grants administered by the FAA. The main grant program for federal funds is the Airport Improvement Program (AIP). The AIP provides grants to public agencies — and, in some cases, to private owners and entities — for the planning and development of public-use airports.[15]

Eligible AIP projects include airport improvements related to enhancing airport safety, capacity, security, and environmental concerns. In general, airports may receive AIP funds for most airfield capital improvements or rehabilitation projects and, in some specific situations, for terminals, hangars, and nonaviation development. Certain professional services that are necessary for eligible projects may also be eligible. The FAA must be able to determine that the projects are justified based on civil aeronautical demand. The projects must also meet federal environmental and procurement requirements.[16]

State Airport Funding

Sections 332.003 through 332.007, F.S., create the Florida Airport Development and Assistance Act (Act). The Act provides the following duties of DOT:

- Provide coordination and assistance for the development of a viable aviation system.
- Advise and assist the Governor in all aviation matters.
- Upon request, assist airport sponsors in airport master planning.
- Upon request, provide financial and technical assistance to public agencies which operate public-use airports[17] by making DOT resources available on a cost-reimbursement basis to such agencies for special needs of limited duration.
- Participate in research and development programs relating to airports.
- Administer DOT's participation in the program of aviation and airport grants.
- Develop, promote, and distribute supporting information and educational services.
- Encourage the maximum allocation of federal funds to local airport projects in this state.
- Support the development of land located within the boundaries of airports for the purpose of industrial or other uses compatible with airport operations.[18]

Section 332.007, F.S., relates to the administration and financing of aviation and airport programs and projects. DOT must prepare and continuously update an aviation and airport work program based on a collection of the local sponsors'[19] proposed projects to be included in DOT's work program.[20] DOT's airport work program must separately identify development projects and discretionary capacity improvement projects.[21] DOT's airport work program must be consistent with the statewide aviation system plan and, to the maximum extent feasible, consistent with approved local government comprehensive plans. Projects involving DOT-administered funds to be undertaken and implemented

[13] *See* FAA, *Airports, Planning and Capacity, Airport Categories*, https://www.faa.gov/airports/planning_capacity/categories/ (last visited on February 24, 2021). Florida's only non primary airport is Vero Beach Regional Airport.
[14] *Id*.
[15] *See* FAA, *Airports, Airport Improvement Program (AIP), Overview: What is AIP?* https://www.faa.gov/airports/aip/overview/ (last visited on February 24, 2021).
[16] DOT Agency Analysis of 2021 House Bill 1143, p. 4. (February 25, 2021).
[17] S. 332.004(14), F.S., defines the term "public-use airport" as any publicly owned airport which is used or to be used for public purposes.
[18] S. 332.006, F.S.
[19] S. 332.004(15), F.S., defines the term "sponsor" as any eligible agency which, either individually or jointly with one or more eligible agencies, submits to the department an application for financial assistance for an airport development project in accordance with this act.
[20] DOT's work program is developed pursuant to s. 339.135, F.S.
[21] S. 332.007(2)(a), F.S.

by the airport sponsor must be included in the aviation and airport work program.[22] Assistance may only be provided for projects which are included in the department's adopted work program.[23]

Only projects or programs provided for in the Act that will contribute to the implementation of the state aviation system plan, that are consistent with and will contribute to the implementation of any airport master plan or layout plan, and that are consistent, to the maximum extent feasible, with the approved local government comprehensive plans are eligible for the expenditure of state funds in accordance with fund participation rates and priorities.[24]

Subject to the availability of appropriated funds, DOT may fund up to 50 percent of the portion of eligible airport project costs which are not funded by the federal government, except that DOT may initially fund up to 75 percent of the cost of land acquisition for a new airport or for the expansion of an existing airport which is owned and operated by a municipality, a county, or an authority.[25]

However, DOT may help fund the capital cost of eligible public airport and aviation development projects at a higher rate for various types of projects. When federal funds are not available, DOT may fund up to 80 percent of master planning and eligible aviation development projects at publicly owned, publicly operated airports. If federal funds are available, DOT may fund up to 80 percent of the nonfederal share of such projects. Such funding is limited to airports that have no scheduled commercial service.[26]

DOT requires statutory compliance via assurances included with each grant agreement. The agency certifies that, with respect to a project, it will comply, within its authority, with all applicable, current laws and rules of the state and local government, as well as DOT policies, guidelines, and requirements. The sponsor also certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as FAA advisories and FAA issued waivers. Failure by the agency to satisfactorily remedy the non-compliance absolves DOT's continued financial commitment to the project and immediately requires the agency to repay DOT the full amount of funds expended by DOT on a project.[27]

Effect of the Bill

The bill authorizes DOT to fund up to 80 percent of the costs for eligible airport projects, with a 20 percent local match, at all publicly-owned, public-use general aviation airports and commercial service airports not classified as large hub, medium hub, or small hub by the FAA. Thus commercial service airports with less than approximately 470,000 passenger boardings per year will qualify for this funding.[28] This number will change over time, however, with the number of passenger boardings at United States airports.

Based on current passenger boardings, the bill would allow DOT to fund eligible projects at up to 80 percent of project costs with a 20 percent local match at the following commercial service airports: Daytona Beach International, Gainesville Regional, Melbourne International, Tallahassee International, and Vero Beach Regional airports.[29]

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

[22] S. 332.007(2)(b), F.S.
[23] S. 332.007(3), F.S.
[24] S. 332.007(5), F.S.
[25] S. 332.007(6)(a), F.S.
[26] S. 332.007(6)(c), F.S.
[27] DOT Agency Analysis of 2021 House Bill 1143.
[28] FAA, Commercial Service Airports (Rank Order) based in Calendar Year 2019, September 25, 2020. https://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/media/cy19-commercial-service-enplanements.pdf (last visited March 9, 2020).
[29] DOT Agency Analysis of 2021 House Bill 1143; p. 4, 6-7.

Section 1 Amends s. 332.007, F.S., relating to the administration and financing of airport programs and projects.

Section 2 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate.[30] *See* Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate. *See* Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill expands the number of airports that would qualify for the 80/20 percent, state/local match requirement for certain commercial service airport projects seeking DOT aviation funds. This change could impact the opportunity of these airports to engage in these projects as it would decrease the local match requirement while increasing the state's share of funding. While the impact of the shift in match required is indeterminate, all costs are still limited to available aviation project funding within DOT's adopted Work Program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking, nor does it provide a grant of rulemaking authority.

[30] DOT Revised Agency Analysis of HB 1143, p. 6.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to funding of aviation development projects; amending s. 332.007, F.S.; providing that specified funding of aviation development projects is limited to general aviation airports or commercial service airports under certain circumstances; providing an effective date.

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

Section 1. Paragraph (c) of subsection (6) of section 332.007, Florida Statutes, is amended to read:

332.007 Administration and financing of aviation and airport programs and projects; state plan.—

(6) Subject to the availability of appropriated funds, the department may participate in the capital cost of eligible public airport and aviation development projects in accordance with the following rates, unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act:

(c) When federal funds are not available, the department may fund up to 80 percent of master planning and eligible aviation development projects at publicly owned, publicly operated airports. If federal funds are available, the department may fund up to 80 percent of the nonfederal share of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

such projects. Such funding is limited to general aviation airports, or commercial service airports that are not classified as large, medium, or small hub airports by the Federal Aviation Administration ~~have no scheduled commercial service~~.

Section 2. This act shall take effect July 1, 2021.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

CS/HB 6077

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 6077 Assets of an Estate in Administration
SPONSOR(S): Insurance & Banking Subcommittee; Robinson, W.
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	16 Y, 0 N, As CS	Hinshelwood	Luczynski
2) Commerce Committee		Hinshelwood	Hamon

SUMMARY ANALYSIS

A court having jurisdiction over the administration of an estate may order that part or all of the personal assets of the estate be placed with a financial institution designated by the court. Currently, the financial institutions where a court may order assets placed are "a bank, trust company, or savings and loan association *(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)*." The Federal Savings and Loan Insurance Corporation (FSLIC) was created in 1934 in order to insure deposits of savings and loan associations. However, the FSLIC was abolished in 1989 after the savings and loan crisis of the 1980s. Savings and loan associations are now insured by the Federal Deposit Insurance Corporation, as are commercial banks.

The bill removes a statutory reference to the FSLIC along with other obsolete language.

The bill has no impact on local governments or the state. The bill has an indeterminate but likely positive impact on the private sector.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

When a court administers an estate, such as in probate[1] or in a guardianship,[2] there is often an individual appointed by the court to assist with the administration. Depending on the context, such individual will have varying titles such as guardian, curator, executor, administrator, trustee, or receiver. Although the individual may be required by statute or the court to carry a bond,[3] s. 69.031, F.S., provides that a court may nevertheless order that part or all of the personal assets of the estate be placed with a financial institution designated by the court.[4] This may occur if the size of the bond required is burdensome, or for other cause.[5] After the assets have been placed with the financial institution, and receipt for the assets is given by the financial institution, the court must waive the bond or reduce it so that the bond only applies to the estate remaining in the hands of the individual appointed to assist with administration of the estate.[6]

Currently, the financial institutions where a court may order assets placed are "a bank, trust company, or savings and loan association *(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)*."[7]

The Federal Savings and Loan Insurance Corporation (FSLIC) was created by the National Housing Act of 1934 in order to insure deposits of savings and loan associations.[8] Savings and loan associations may be chartered both under federal authority[9] or state authority[10] and were created to primarily provide depository services and make home loans. Today, the rights and privileges of savings and loan associations are substantially similar to, and in some cases the same as, commercial banks.[11] The Federal Deposit Insurance Corporation now insures savings and loan associations, as well as commercial banks.[12] The FSLIC, the entity that initially insured savings and loan associations, was abolished in 1989 after the savings and loan crisis of the 1980s.[13]

As previously stated, s. 69.031, F.S., permits a court to place assets in a savings and loan association *that is a member of the FSLIC*, a now obsolete entity.

Effect of the Bill

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[1] Probate is a court-supervised process for identifying and gathering the assets of a deceased person (decedent), paying the decedent's debts, and distributing the decedent's assets to his or her beneficiaries. The Florida Bar, *Consumer Pamphlet: Probate in Florida*, https://www.floridabar.org/public/consumer/pamphlet026/ (last visited Mar. 6, 2021).
[2] A guardianship is a legal proceeding in the circuit courts of Florida in which a guardian is appointed to exercise the legal rights of an incapacitated person. The Florida Bar, *Consumer Pamphlet: What is Guardianship?*, https://www.floridabar.org/public/consumer/pamphlet030/ (last visited Mar. 6, 2021).
[3] *See, e.g.*, fiduciary bonds in formal probate proceedings (ss. 733.402 – 733.406, F.S.); fiduciary bonds in guardianship (ss. 744.2003, 744.351, and 744.619, F.S.).
[4] S. 69.031(1), F.S.
[5] *Id.*
[6] S. 69.031(1) and (2), F.S.
[7] S. 69.031(1), F.S. (emphasis added).
[8] Pub.L. 73–479, https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/48/STATUTE-48-Pg1246.pdf.
[9] Home Owners' Loan Act, 12 U.S.C. § 1461 *et seq*.
[10] In Florida, chs. 665 and 667, F.S., comprise authority to charter a savings and loan association. However, Florida currently has no savings and loan associations chartered under its authority.
[11] Office of the Comptroller of the Currency, *Interpretive Letter #1169* (June 30, 2020), https://www.occ.treas.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1169.pdf (last visited Mar. 6, 2021).
[12] 12 U.S.C. § 1814(a).
[13] Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub.L. 101-73, https://www.govinfo.gov/content/pkg/STATUTE-103/pdf/STATUTE-103-Pg183.pdf (last visited Mar. 6, 2021).

The bill removes a statutory reference to the FSLIC along with other obsolete language.

B. SECTION DIRECTORY:

Section 1. Amends s. 69.031, F.S., relating to designated financial institutions for assets in hands of guardians, curators, administrators, trustees, receivers, or other officers.

Section 2. Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill broadens access to financial services by allowing a court to place assets of an estate in a savings and loan association without reference to the savings and loan association having insurance through the FSLIC, a now obsolete entity. The impact to the private sector, while likely positive, is indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 10, 2021, the Insurance & Banking Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. While the bill as filed deleted reference to the FSLIC, the committee substitute also deletes the phrase “doing business in this state”.

The staff analysis has been updated to reflect the committee substitute.

A bill to be entitled

An act relating to assets of an estate in administration; amending s. 69.031, F.S.; removing a requirement that assets of an estate in administration may only be placed in a savings and loan association if it meets specified requirements; providing an effective date.

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

Section 1. Subsection (1) of section 69.031, Florida Statutes, is amended to read:

69.031 Designated financial institutions for assets in hands of guardians, curators, administrators, trustees, receivers, or other officers.—

(1) When it is expedient in the judgment of any court having jurisdiction of any estate in process of administration by any guardian, curator, executor, administrator, trustee, receiver, or other officer, because the size of the bond required of the officer is burdensome or for other cause, the court may order part or all of the personal assets of the estate placed with a bank, trust company, or savings and loan association ~~(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)~~ designated by the court, consideration

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

being given to any bank, trust company or savings and loan association proposed by the officer. When the assets are placed with the designated financial institution, it shall file a receipt therefor in the name of the estate and give the officer a copy. Such receipt shall acknowledge the assets received by the financial institution. All interest, dividends, principal and other debts collected by the financial institution on account thereof shall be held by the financial institution in safekeeping, subject to the instructions of the officer authorized by order of the court directed to the financial institution.

Section 2. This act shall take effect July 1, 2021.