

Regulatory Reform & Economic Development Subcommittee

Wednesday, March 22, 2023
12:00 pm - 3:30 pm
Webster Hall (212 Knott)

Meeting Packet

Paul Renner
Speaker

Tyler Sirois
Chair

The Florida House of Representatives

Commerce Committee

Regulatory Reform & Economic Development Subcommittee

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Meeting Agenda

Wednesday, March 22, 2023
12:00 pm – 3:30 pm
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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- CS/HB 213 Limitation of Actions Involving Real Estate Appraisers and Appraisal Management Companies by Civil Justice Subcommittee, Borrero
- HB 917 State Minimum Wage by Yeager
- HB 941 Authorization of Restriction Concerning Dogs by Busatta Cabrera
- HB 947 Manatee County by Robinson, W.
- HB 1117 Medical Treatment of Animals by Buchanan
- HB 1307 Department of Agriculture and Consumer Services by McClure
- HB 1333 Interstate-Mobility and Universal-Recognition Occupational Licensing Act by Koster
- HB 1383 Specialty Contractors by Trabulsy

- HB 1395 Management and Safety of Condominium and Cooperative Buildings by Lopez, V.

- HB 1459 Registration Fees for Malt Beverage Brands and Labels by Yeager

- HB 1467 City of Kissimmee, Osceola County by Arrington

- HB 1561 Duval County by Duggan

Consideration of the following proposed committee substitute(s):

- PCS for HB 1251 -- Limited Barbering

V. Closing Remarks

VI. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 213 Limitation of Actions Involving Real Estate Appraisers and Appraisal Management Companies
SPONSOR(S): Civil Justice Subcommittee, Borrero
TIED BILLS: **IDEN./SIM. BILLS:** SB 398

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	18 Y, 0 N, As CS	Mawn	Jones
2) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
3) Judiciary Committee			

SUMMARY ANALYSIS

Part II of ch. 475, F.S., regulates Florida real estate appraisers and the provision of real estate appraisal services. A real estate appraisal gives the current value of real property. This appraisal value is used to establish the property's fair market value, which information is useful to persons involved in real estate transactions, including buyers, sellers, financiers, and insurers.

Persons who suffer damages as a result of an act or omission in the performance of appraisal services or appraisal management services may have a cause of action against the person or party responsible for the act or omission. Available causes of action may include an action founded on contract or tort, such as negligence or fraud. Under Florida law, the statute of limitations for an action for professional malpractice, including malpractice in the provision of appraisal services or appraisal management services, whether founded on contract or tort, is generally two years, running from the time the cause of action is discovered or should have been discovered with the exercise of due diligence; however, this statute of limitations applies only to persons in privity – that is, in direct contract – with the professional. If the plaintiff is not in privity with the professional, other statutes of limitations may apply, including a four-year statute of limitations for negligence and fraud.

CS/HB 213 creates a seven-year statute of repose for a lawsuit to recover damages from an appraiser or appraisal management company based on contract, tort, or other legal theory for an act or omission in the performance of appraisal services or appraisal management services. Such statute of repose runs from the date the appraisal services or appraisal management services were performed, or should have been performed. However, under the bill, the statute of repose does not apply to any:

- Administrative proceedings initiated by specified regulatory authorities.
- Action alleging that an appraiser or appraisal management company committed fraud.

Finally, the bill provides that the statute of repose applies to any action commenced on or after the bill's effective date, except that any action that would not have been barred before the imposition of the statute of repose but would become barred by its imposition must be commenced on or before July 1, 2024. If such an action is not commenced by July 1, 2024, it is barred.

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

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Statutes of Limitations and Repose

A statute of limitations bars a lawsuit's filing after a certain amount of time elapses following an injury.[1] This time period typically begins to run when a cause of action accrues (that is, on the date of the injury) but may also begin to run on the date the injury is discovered or on which it would have been discovered with reasonable efforts.[2] In other words, a statute of limitations bars the available civil remedy if a lawsuit is not timely filed after an injury.

A statute of repose bars the filing of a lawsuit after a fixed period of time passes following a specific act, which act is unrelated to the cause of action's accrual or the injury's discovery, even if this period ends before the plaintiff is injured.[3] Further, a statute of repose eliminates the underlying substantive right of action, not just the available civil remedy, upon expiration of the statutorily-specified filing period.[4] Courts construe a cause of action rescinded by a statute of repose as if the right to sue never existed, which encourages diligence in the prosecution of claims, eliminates the potential for abuse resulting from a stale claim, and fosters finality in liability.[5]

Real Estate Appraisers

Part II of ch. 475, F.S., regulates Florida real estate appraisers and the provision of real estate appraisal services. "Appraisal" or "appraisal services," as used in this part, means the services provided by certified[6] or licensed[7] appraisers or registered trainee appraisers,[8] including:

- "Appraisal assignments," denoting an engagement for which a person is employed or retained to act, or could be perceived by third parties as acting, as an agent or a disinterested third party in rendering an unbiased analysis, opinion, review, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real property.
- "Analysis assignments," denoting appraisal services relating to the employer's or client's individual objectives and includes specialized marketing, financing, and feasibility studies as well as analyses, opinions, and conclusions given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, or real estate consulting.
- "Appraisal review assignments," denoting the employment or retention of a person to opine about the quality of another appraiser's appraisal, appraisal report, or work, which review may or may not contain the reviewing appraiser's opinion of value.[9]

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[1] Legal Information Institute, *Statute of Limitations*, https://www.law.cornell.edu/wex/statute_of_limitations (last visited March 14, 2023).
[2] *Id.*
[3] Legal Information Institute, *Statute of Repose*, https://www.law.cornell.edu/wex/statute_of_repose (last visited March 14, 2023); *Kush v. Lloyd*, 616 So. 2d 415 (Fla. 1992).
[4] *Beach v. Great Western Bank*, 692 So. 2d 146 (Fla. 1997).
[5] *Lamb By and Through Donaldson v. Volkswagenwerk Aktiengesellschaft*, 631 F. Supp. 1144, 1148 (S.D. Fla. 1986), judgment aff'd, 835 F.2d 1369 (11th Cir. 1988).
[6] A "certified appraiser" is either a "certified general appraiser" or a "certified residential appraiser." A "certified general appraiser" is a person who is certified by the Department of Business and Professional Regulation ("DBPR") to issue appraisal reports for any type of real property. A "certified residential appraiser" is a person who is certified by DBPR to issue appraisal reports for residential real property of one to four residential units, without regard to transaction value or complexity, or real property as may be authorized by federal regulation. S. 475.611(1)(k) and (l), F.S.
[7] A "licensed appraiser" is a person who is licensed by the department to issue appraisal reports for residential real property of one to four residential units or on such real estate or real property as may be authorized by federal regulation. DBPR stopped issuing licenses for "licensed appraisers" on July 1, 2003. S. 475.611(1)(t), F.S.
[8] A "registered trainee appraiser" is a person who is registered with DBPR to perform appraisal services under the direct supervision of a certified appraiser. A registered trainee appraiser may accept appraisal assignments only from her or his supervisory appraiser. S. 475.611(1)(v), F.S.
[9] S. 475.611(1)(a), F.S.

In other words, a real estate appraisal gives the current value of real property. This appraisal value is used to establish the property's fair market value, which information is useful to persons involved in real estate transactions, including buyers, sellers, financiers, and insurers.

Regulation of Appraisers

Under Part II of ch. 475, the Florida Real Estate Appraisal Board ("Board"), housed within the Department of Business and Professional Regulation's ("DBPR") Division of Real Estate, has full power to regulate, by rule,[10] the issuance of and the establishment of qualifications for appraiser licenses, certifications, registrations, and permits; to discipline appraisers and appraisal management companies[11] in any manner authorized in statute;[12] to regulate approved courses; to establish real estate appraisal standards; and to establish standards for and regulate supervisory appraisers.[13]

Civil Actions Against Appraisers

Persons who suffer damages as a result of an act or omission in the performance of appraisal services or appraisal management services may have a cause of action against the person or party responsible for the act or omission. Available causes of action may include an action founded on contract or tort, such as negligence[14] or fraud.[15]

Under Florida law, the statute of limitations for an action for professional malpractice, including malpractice in the provision of appraisal services or appraisal management services, whether founded on contract or tort, is generally two years,[16] running from the time the cause of action is discovered or should have been discovered with the exercise of due diligence; however, this statute of limitations applies only to persons in privity – that is, in direct contract – with the professional.[17] If the plaintiff is not in privity with the professional, other statutes of limitations may apply, including a four-year statute of limitations for negligence and fraud.[18]

Effect of Proposed Changes

CS/HB 213 creates a seven-year statute of repose for an action to recover damages from an appraiser or appraisal management company based on contract, tort, or other legal theory for an act or omission in the performance of appraisal services or appraisal management services. Such statute of repose runs from the date the appraisal services or appraisal management services were performed, or should have been performed. However, under the bill, the statute of repose does not apply to any:

- Administrative proceedings initiated by the Board or DBPR.
- Action alleging that an appraiser or appraisal management company committed fraud.

The bill also provides that the statute of repose applies to any action commenced on or after the bill's effective date, except that any action that would not have been barred before the imposition of the

[10] The Board may adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement its statutory duties. S. 475.614(1), F.S.

[11] An "appraisal management company" is a person who, within a 12-month period oversees an appraisal panel of more than 15 state-certified or -licensed appraisers in a state, or 25 or more such appraisers in two or more states, and who performs appraisal management services. "Appraisal management services" means the coordination or management of appraisal services for compensation by: 1) employing, contracting with, or otherwise retaining one or more licensed or certified appraisers to perform appraisal services for a client; or 2) acting as an intermediary between a client and one or more licensed or certified appraisers to facilitate the client's employing, contracting with, or otherwise retaining the appraisers. S. 475.611(1)(c) and (d), F.S.

[12] S. 475.624, F.S., provides for the discipline of appraisers, while s. 475.6245, F.S., provides for the discipline of appraisal management companies.

[13] S. 475.613(2), F.S.

[14] Appraisal negligence occurs when an appraiser does not exercise the degree of care and skill that an ordinary appraiser would exercise. Tony Sevelka, *Appraisal Standards and Professional Negligence Claims*, https://intval.com/articles/Appraisal-Standards-and-Professional-Negligence-Claims.pdf (last visited March 14, 2023).

[15] Appraisal fraud occurs when an appraiser makes an intentional and material misrepresentation relating to real property's value. Investopedia, *Appraisal Fraud*, https://www.investopedia.com/terms/a/appraisalfraud.asp (last visited March 14, 2023)

[16] A different statute of limitations applies to medical malpractice claims. S. 95.11(4)(b), F.S.

[17] S. 95.11(4)(a), F.S.

[18] S. 95.11(3)(a) and (j), F.S.; *Llano Financing Group, LLC v. Petit,* 230 So. 3d 141 (Fla. 1st DCA September 27, 2017).

statute of repose but would become barred by its imposition must be commenced on or before July 1, 2024. If such an action is not commenced by July 1, 2024, it is barred.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Creates s. 95.371, F.S., relating to actions against real estate appraisers and appraisal management companies.
Section 2: Provides applicability.
Section 3: Provides an effective date of July 1, 2023.

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 limits the liability of appraisers and appraiser management companies by imposing a seven-year statute of repose on actions for damages against such persons or companies for acts or omissions in the performance of appraisal services or appraisal management services.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Due Process

The U.S. Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law."[19] Similarly, the Florida Constitution provides that "[n]o person shall be deprived of life, liberty, or property without due process of law…"[20]

Although the right to file a lawsuit is a valid and protected property interest,[21] a plaintiff has no vested right in a statute of limitations or repose in effect when his or her cause of action accrues.[22] A statute of limitations or repose may thus be either initially imposed or reduced by legislation and applied to an existing cause of action so long as the plaintiff still has a reasonable amount of time left in which to enforce his or her right to file a lawsuit.[23]

The bill attempts to address this issue by giving a plaintiff until July 1, 2024, to bring a suit for any act or omission in the performance of appraisal services or appraisal management services if the plaintiff's cause of action would otherwise be barred by the imposition of the statute of repose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 14, 2023, the Civil Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Deleted a provision of the bill creating a one-year statute of limitations for an action to recover damages from an appraiser or appraisal management company based on contract, tort, or other legal theory for an act or omission is the performance of appraisal services or appraisal management services.
- Deleted a provision specifying that all actions for damages or other relief brought against an appraiser or appraisal management company with respect to appraisal services or appraisal management services would be governed exclusively by the section created by the bill.
- Modified language addressing due process considerations.

This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

[19] U.S. Const. amend. 14.
[20] Art. 1, s. 21, Fla. Const.
[21] *See Polk Cnty BOCC v. Special Disability Trust Fund*, 791 So. 2d 581, 583 (Fla. 1st DCA 2001).
[22] *Lamb By and Through Donaldson v. Volkswagenwerk Aktiengesellschaft*, 631 F. Supp. 1144 (S.D. Fla. 1986), judgment aff'd, 835 F.2d 1369 (11th Cir. 1988).
[23] *Bauld v. J.A. Jones Const. Co.*, 357 So. 2d 401, 403 (Fla. 1978), quoting *Hart v. Bostick*, 14 Fla. 162 (1872); *Walter Denson & Son v. Nelson*, 88 So. 2d 120 (Fla. 1956).

A bill to be entitled

An act relating to limitation of actions involving real estate appraisers and appraisal management companies; creating s. 95.371, F.S.; providing definitions; specifying limitations periods for certain actions involving real estate appraisers and appraisal management companies; providing construction; providing applicability; providing an effective date.

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

Section 1. Section 95.371, Florida Statutes, is created to read:

95.371 Actions against real estate appraisers and appraisal management companies.—

(1) For purposes of this section, the terms or phrases "appraisal services," "appraisal management company," "appraisal management services," "appraiser," "board," and "department" have the same meanings as in s. 475.611.

(2) Notwithstanding any other provision of law, an action for damages or other relief against an appraiser or appraisal management company based on contract, tort, or other legal theory for an act or omission in the performance of appraisal services or appraisal management services may not be brought

more than 7 years after the date the appraisal services or appraisal management services were performed, or should have been performed.

(3) This section does not apply to:

(a) An administrative proceeding initiated by the board or department.

(b) An action in which it is alleged that an appraiser or appraisal management company committed fraud.

Section 2. The statute of repose imposed by this act applies to any action commenced on or after the effective date of this act, except that any action that would not have been barred before the imposition of the statute of repose but would become barred by its imposition must be commenced on or before July 1, 2024. If such action is not commenced by July 1, 2024, then the action is barred.

Section 3. This act shall take effect July 1, 2023.

HB 917

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 917 State Minimum Wage
SPONSOR(S): Yeager
TIED BILLS: **IDEN./SIM. BILLS:** SB 892

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) Appropriations Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

The federal Fair Labor Standards Act (FLSA) provides workers with minimum wage, overtime pay, and child labor protections. The FLSA authorizes the U.S. Secretary of Labor to administer the FLSA provisions, including workplace inspections, investigations, and enforcement of violations. The current federal minimum wage rate under the FLSA is $7.25 an hour. Most wage and salary workers are covered by the FLSA. The FLSA exempts certain employers and employees from the federal minimum wage and overtime requirements, including minor league baseball players.

Pursuant to the State Constitution, on September 30, 2021, Florida's minimum wage increased to $10 per hour. Each year, thereafter, Florida's minimum wage will increase by $1 until the minimum wage reaches $15 per hour on September 30, 2026. Beginning in 2027, the minimum wage will be adjusted annually for inflation, as it had from 2005 - 2021.

The Florida Minimum Wage Act (Act) was enacted in 2005 to implement the minimum wage provisions in the State Constitution. The Act designates the Department of Economic Opportunity (DEO) as the state agency that implements the minimum wage requirements, and establishes procedures with respect to enforcement of violations. The Act specifies that:

- Only those individuals entitled to receive the federal minimum wage under the FSLA, and its implementing regulations, are eligible to receive the state minimum wage.
- Provisions related to federal minimum wage exemptions in the FLSA are considered incorporated into the Act.

The bill amends the Act to clarify that amendments to the FLSA are incorporated into the Act, aligning Florida's minimum wage exemptions with recent amendments to federal exemptions.

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

The bill becomes effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Fair Labor Standards Act

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.[1] In 1938, the FLSA established a minimum wage of $.25 an hour. The current federal minimum wage rate is $7.25 an hour, which went into effect July 24, 2009.[2] The FLSA applies to employment within any state in the U.S., the District of Columbia or any territory or possession of the U.S.[3]

The FLSA covers most private and public sector employees. However, certain employers and employees are exempt from coverage. For example: individuals with disabilities, youth workers, tipped workers and executive, administrative and professional workers. The FLSA covers businesses if the business has annual sales of at least $500,000.[4] It also covers certain individual employees if such employee is engaged in interstate commerce.

Regardless of the dollar amount of revenues of a business, the FLSA applies to:[5]

- **Governments**: Federal, state, or local government agencies.
- **Hospitals**: Hospitals, or institutions primarily engaged in the care of the sick, the aged, or the mentally ill or disabled who live on the premises (it does not matter if the hospital or institution is public or private or is operated for profit or not-for-profit).
- **Schools**: Pre-schools, elementary or secondary schools or institutions of higher learning (e.g., college), or a school for mentally or physically handicapped or gifted children (it does not matter if the school or institution is public or private or operated for profit or not-for-profit).

The FLSA includes several exemptions from the federal minimum wage provisions, including:[6]

- Executive, administrative and professional employees.
  - Teachers and academic administrative personnel in elementary and secondary schools, outside sales employees, and employees in certain computer-related occupations.
- Employees in certain seasonal amusement or recreational establishments, employees in certain small newspapers, seamen employed on foreign vessels, employees engaged in fishing operations, and employees engaged in newspaper delivery;
- Farm workers employed by certain employers;
- Causal babysitters and persons employed as companions for the elderly or infirm;
- Border patrol agents[7]; and

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[1] 29 U.S.C. § 201-219 and 29 C.F.R. ch. V.

[2] Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, https://crsreports.congress.gov/product/pdf/R/R42713#:~:text=The%20Fair%20Labor%20Standards%20Act%20(FLSA)%20provides%20workers%20with%20minimum,employees%20are%20exempt%20from%20coverage, (last visited Mar. 14, 2023) (The main FLSA provisions and accompanying Department of Labor (DOL) regulations constitute what is commonly known as federal wage and hour laws and federal child labor law.).

[3] Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, https://crsreports.congress.gov/product/pdf/R/R42713#:~:text=The%20Fair%20Labor%20Standards%20Act%20(FLSA)%20provides%20workers%20with%20minimum,employees%20are%20exempt%20from%20coverage, (last visited Mar. 14, 2023) (The FLSA does not apply to employees working in a foreign country even if the employer has its main office in the U.S.).

[4] The size of an enterprise is measured by its "annual sales or business done." Annual sales or business done includes all business activities that can be measured in dollars. Thus, retailers are covered by the FLSA if their annual sales are at least $500,000. Owners of rental properties are covered if they collect at least $500,000 annually in rent. 29 C.F.R. §§779.258-779.259.

[5] U.S. Department of Labor, Fair Labor Standards Act Advisor, https://webapps.dol.gov/elaws/whd/flsa/scope/screen10.asp, (last visited Mar. 15, 2023).

[6] 29 U.S.C. § 213 (It also includes separate exemptions from overtime pay.)

- Baseball players who are compensated pursuant to a contract that provides for a weekly salary for services performed during the league's championship season at a rate that is not less than a weekly salary equal to the minimum wage.

The FLSA was amended in 2014, related to border patrol agents, and again in 2018, to exempt minor league baseball players who are paid at least $290 per week during the 2018 championship season from the federal minimum wage rate and overtime pay.[8] These two amendments were the only amendments made to the minimum wage exemptions provisions of the FLSA since Florida passed its minimum wage law in 2005.[9]

The FLSA provides that if states enact worker protections, including minimum wage rates, that are more protective of employees than what is provided by the FLSA, the state law applies.[10] Consequently, no state law may weaken the worker protections in the FLSA. However, state laws that impose greater worker protections will supersede those in the FLSA.[11]

Thirty states plus Washington DC, Guam, Puerto Rico, and the Virgin Islands provide a minimum wage greater than the federal minimum wage. Thirteen states provide a minimum wage that is equal to the federal minimum wage, five states have not adopted a minimum wage, and two states have a minimum wage that is below the federal minimum wage.[12] For those seven states, the federal minimum wage applies. But only to those workers covered by the FLSA.

Article X, Section 24 of the Florida Constitution

On November 2, 2004, Floridians voted to amend the Florida Constitution by adding a minimum wage provision (Section 24) that established the state minimum wage.[13] Prior to this date Florida did not have a law on minimum wage so the FLSA applied for covered workers. Section 24 provides the amount of the minimum wage and the procedure for calculating increases in the minimum wage.[14]

Florida voters again on November 3, 2020, voted to approve a constitutional amendment related to the state's minimum wage, Amendment 2, which amended the State Constitution to gradually increase the state's minimum wage to $15 an hour by the year 2026.[15] Pursuant to the passage of Amendment 2, on September 30, 2021, Florida's minimum wage increased to $10 per hour. Each year, thereafter, Florida's minimum wage will increase by $1 until the minimum wage reaches $15 per hour on

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[7] S.1691 – 113th Congress (2013-2014): Border Patrol Agent Pay Reform Act of 2014, S.1691, 113th Cong, (2014).

[8] *See* Levi Weaver, On Minor-League Pay, *MLB's Stance Doesn't Line Up with the Facts*, ATHLETIC (Apr. 4, 2018), https://www.theathletic.com/293189/%202018/04/04/on-minor-league-pay-mlbs-stance-doesnt-line-up-with-the-facts// (last visited March 1, 2023) (recounting salary scale per level of minor league baseball, while noting that the "federally-recognized poverty line is $12,140 per year for single-individual households." A not-insignificant percentage of minor league players are able to subsidize their relatively meager monthly salaries by drawing upon the signing bonuses they received from their MLB clubs when first entering the professional ranks, bonuses that can range anywhere from $10,000 to several million dollars. "The top 64 picks [in the MLB draft] last year all received a bonus of over $1,000,000 before taxes, but roughly 40% of players . . . signed for one-time bonuses of $10,000 or less".

[9] S. 448.110, F.S., expressly references s. 214 of the FLSA, which addresses employment under special certificates, and s. 213, which addresses minimum wage exemptions; however, ss. 214 has not been amended since 1989 (see Pub. L. 101–157, § 4(d), Nov. 17, 1989, 103 Stat. 941).

[10] 29 U.S.C. §218.

[11] Congressional Research Service, CRS Report R43792, *The Fair Labor Standards Act (FLSA): An Overview, Updated March 2, 2023*, https://crsreports.congress.gov/product/pdf/R/R42713#:~:text=The%20Fair%20Labor%20Standards%20Act%20(FLSA)%20provides%20workers%20with%20minimum,employees%20are%20exempt%20from%20coverage, (last visited Mar. 14, 2023).

[12] U.S. Department of Labor, Consolidated Minimum Wage Table, https://www.dol.gov/agencies/whd/mw-consolidated (last visited Mar. 15, 2023).

[13] Art. X, s. 24., Fla. Const.

[14] Art. X, s. 24 (c), Fla. Const.

[15] U.S. Department of State, *Notice of Increase to State of Florida's Minimum Wage*, https://www.state.gov/wp-content/uploads/2021/01/2021-01-29-Notice-FL-Minimum-Wage-Increase.pdf (last visited Mar. 3, 2023).

September 30, 2026.[16] Beginning in 2027, the minimum wage will be adjusted annually for inflation, as it had been done from 2004 - 2021.

Related to minimum wage, the Florida Constitution states that all working Floridians are entitled to be paid a minimum wage sufficient to provide a decent and healthy life, that protects employers from unfair, low wage competition; and a minimum wage that does not force working Floridians to rely on taxpayer-funded public services.[17]

The Florida Constitution references the FLSA and specifically ties the meaning[18] of certain terms, "Employer," "Employee" and "Wage," to have the meanings established under the FLSA and its implementing regulations.[19] It also indicates that that case law, administrative interpretations, and other guiding standards developed under the federal FLSA must guide the construction of Florida's Constitution related to Section 24 and any implementing statutes or regulations.[20]

Florida Minimum Wage Act

The Florida Minimum Wage Act (Act) was enacted in 2005 to implement the minimum wage provisions in the State Constitution.[21] The Act designates the Department of Economic Opportunity (DEO) as the state agency that implements the minimum wage requirements, establishes procedures with respect to civil actions alleging violations, and provides that it is the exclusive remedy under state law for violations of Section 24.[22]

The Act provides that effective May 2, 2005, employers are required to pay employees a minimum wage at an hourly rate of $6.15 for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the FSLA and its implementing regulations are eligible to receive the state minimum wage pursuant to the State Constitution and this statute. The provisions of ss. 213 and 214 of the federal Fair Labor Standards Act, as interpreted by applicable federal regulations and implemented by the Secretary of Labor, are incorporated by reference.[23]

The Act requires DEO to calculate an adjusted state minimum wage rate, and requires the Department of Revenue (DOR) and DEO to annually publish the amount of the adjusted state minimum wage and the effective date on their websites. The Act authorizes persons to file a complaint or inform any person of his or her potential rights pursuant to Section 24 regarding unpaid wages.[24] The Act also authorizes the Attorney General (AG) to bring a civil action to enforce these provisions. The AG may seek injunctive relief, and for willful violations, may seek to impose a fine of $1,000 per violation, payable to the state.[25]

As it relates to the federal minimum wage and the FLSA, the Act specifies that:[26]

- Only those individuals entitled to receive the federal minimum wage under the FSLA, and its implementing regulations, are eligible to receive the state minimum wage; and
- Provisions related to federal minimum wage exemptions in the FLSA are considered incorporated in the Act.

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[16] Department of Economic Opportunity, *Florida's Minimum Wage*, https://floridajobs.org/docs/default-source/business-growth-and-partnerships/for-employers/posters-and-required-notices/2022-minimum-wage/2022-florida-minimum-wage-announcement.pdf?sfvrsn=961754b0_2 (last visited Mar. 3, 2023).
[17] Art. X, s. 24 (a), Fla. Const.
[18] *In re Advisory Opinion to the Atty. Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636, 641–42 (Fla. 2004) ("the proposed amendment does not state that it is adopting the FLSA's *definition* of the term "employee," but provides that it is adopting the *meaning* of the term "employee," which is a much broader concept.").
[19] Art. X, s. 24(b), Fla. Const.
[20] Art. X, s. 24(f), Fla. Const.
[21] Ch. 2005-353, Laws of Fla., codified in s. 448.110, F.S.
[22] S. 448.110(10), F.S.
[23] S. 448.110(3), F.S.
[24] S. 448.110(6), F.S.
[25] S. 448.110(7), F.S.
[26] S. 448.110(3), F.S.

Professional Baseball in Florida

Currently, there are 12 minor league baseball teams that are affiliated with Major League Baseball (MLB) in Florida. There are approximately 500 players currently rostered, employed, and being paid by the 12 Florida Minor League Baseball teams.[27] Additionally, 15 MLB teams conduct major and minor league spring training in Florida at thirteen different spring training facilities, a decrease from 18 teams in 2008 and 16 teams in 2009. The Cleveland Indians (previously playing at Winter Haven), Los Angeles Dodgers (Vero Beach) and Cincinnati Reds (Sarasota) have all moved to Arizona in recent years.[28] Two teams that play in the MLB, the Miami Marlins and the Tampa Bay Rays, are permanently located in Florida.

The main baseball season runs from early April to early October with teams typically playing six days a week. There are also play-offs which take place at the end of the normal season for the top ranking teams. The main season is preceded by spring training which typically starts around the middle of February. Many of Florida's baseball parks host other MLB teams every Spring as part of the Grapefruit League Spring Training season. According to a 2018 economic impact study, the 2018 Florida Grapefruit League generated an economic impact of approximately $687 million, $348 million in direct spending, 7,152 jobs, and $253 million in earned wages, for the State of Florida.[29]

According to the industry, baseball players hours vary widely based on a number of factors, which can vary. Players often perform extra activities, work longer hours than regularly scheduled, and perform different activities than their teammates.[30] As a result, the MLB has argued that the nature of the sport stymies conventional attempts at categorizing "work hours."[31]

Recently, MLB agreed to pay $185 million to current and former minor league baseball players to settle a federal class action lawsuit in California alleging violations of minimum wage laws.[32] In the lawsuit, the players sued MLB and the MLB Clubs claiming they failed to pay the players minimum wage and overtime pay in violation of the FLSA and state wage-and-hour laws in California, Arizona and Florida.

MLB also agreed to rescind any prohibitions against teams paying wages to minor league players outside of the season, and committed to issuing a memorandum advising their clubs to compensate minor leaguers in compliance with wage-and-hour laws in effect in Arizona and Florida during spring training, extended spring training, instructional leagues, and the championship season in those states, including any minimum wage laws that apply.[33]

The Court held the final approval hearing related to the settlement on February 17, 2023. A late filed motion to object to the settlement was filed and the Court has taken the motion under consideration. A ruling is not expected until late March 2023.[34]

Effect of Proposed Changes

[27] *See* Michael Avallone, *Then and now: Florida State League*, MiLB.com, https://www.milb.com/news/florida-state-league-overview (last visited March 3, 2023).
[28] FloridaReview.co.uk, *FLORIDA SPRING TRAINING 2023*, https://floridareview.co.uk/florida-events/florida-spring-training (last visited Mar. 15, 2023).
[29] Florida Sports Foundation, *2018 MLB SPRING TRAINING ECONOMIC IMPACT STUDY*, http://playinflorida.com/wp-content/uploads/2018/08/GFL-IS-Page-by-Page-Booklet-spread.pdf (last visited Mar. 15, 2023).
[30] Bleacher Report, Pregame Routines: *A Typical Day in the Life of a Professional Baseball Player*, https://bleacherreport.com/articles/1061824-pregame-routines-a-typical-day-in-the-life-of-a-professional-baseball-player (last visited Mar. 15, 2023).
[31] Pew Trusts, Baseball Players Press Lawmakers for Minor League Labor Standards, https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/03/30/baseball-players-press-lawmakers-for-minor-league-labor-standards (last visited Mar. 19, 2023).
[32] *Aaron Senne et al vs. Office of the Commissioner of Baseball et al*., Civil Case No. 14-cv-00608.
[33] NBC News, MLB settles minor league players' wage-and-hour class action suit for $185 million, https://www.nbcnews.com/news/us-news/mlb-settles-minor-league-players-wage-hour-class-action-suit-185-milli-rcna38554 (last visited Mar. 15, 2023).
[34] JND Legal Administration, *WELCOME TO THE SENNE V. OFFICE OF THE COMMISSIONER OF BASEBALL SETTLEMENT WEBSITE*, https://www.baseballplayerwagecase.com/ (last visited Mar. 15, 2023).

The bill amends the Act to incorporate amendments to the FLSA into the Act, aligning Florida's minimum wage exemptions with federal exemptions.

Specifically, the bill:

- Deletes an unnecessary date;
- Adds "as amended" to the reference to the FLSA; and
- Provides that this specific amendment to the Act is intended to "clarify existing law."

B. SECTION DIRECTORY:

Section 1: Amends s. 448.110, F.S., relating to state minimum wage; annual wage adjustment; enforcement.

Section 2: Provides applicability.

Section 3: Provides an effective date of upon becoming law.

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 an effect on salaries paid to minor league baseball players.

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

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 the state minimum wage; amending s. 448.110, F.S.; providing that the state minimum wage only applies to individuals who are entitled to receive the federal minimum wage under the federal Fair Labor Standards Act, as amended; providing applicability; providing an effective date.

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

Section 1. Subsection (3) of section 448.110, Florida Statutes, is amended to read:

448.110 State minimum wage; annual wage adjustment; enforcement.—

(3) ~~Effective May 2, 2005,~~ Employers shall pay employees a minimum wage at an hourly rate of $6.15 for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the federal Fair Labor Standards Act, as amended, and its implementing regulations shall be eligible to receive the state minimum wage pursuant to s. 24, Art. X of the State Constitution and this section. The provisions of ss. 213 and 214 of the federal Fair Labor Standards Act, as interpreted by applicable federal regulations and implemented by the Secretary of Labor, are incorporated herein.

Section 2. The amendments to s. 448.110, Florida Statutes,

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

in this act are intended to clarify existing law.

Section 3. This act shall take effect upon becoming a law.

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

HB 941

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 941 Authorization of Restriction Concerning Dogs
SPONSOR(S): Busatta Cabrera
TIED BILLS: **IDEN./SIM. BILLS:** SB 942

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	18 Y, 0 N	Burgess	Darden
2) Regulatory Reform & Economic Development Subcommittee		Larkin	Anstead
3) State Affairs Committee			

SUMMARY ANALYSIS

Public housing authorities (PHAs) are created pursuant to Florida law at municipal, county, and regional levels, and become active through resolution by the applicable governing body. Among other powers, PHAs may administer fair housing ordinances and other ordinances as adopted by municipalities, counties, or other authorities contracting for administrative services.

PHAs must file annual agency plans with the U.S. Department of Housing and Urban Development which must include their policies on public housing occupancy, including pet ownership. These policies may include reasonable requirements such as prohibitions on types of animals that are classified as dangerous and restrictions on individual animals based on certain factors including size and weight. Currently, the policies of some PHAs prohibit pets based on the breed, behavior, or training of the pet. However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.

Local governments may adopt ordinances addressing the safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no such regulations may be breed specific. However, ordinances adopted prior to October 1, 1990 are exempt from these statutory requirements.

The bill authorizes PHAs to adopt policies imposing restrictions or additional requirements on owners of dogs deemed dangerous, as defined by Florida law. The bill further allows PHAs to develop procedures or criteria to aid in the implementation of these policies.

The bill expands the general restriction on local governments from adopting breed-specific regulations to include a prohibition on regulations based on size or weight of the dog. The bill also removes the current exception that allowed local ordinances adopted prior to October 1, 1990 to regulate based on breed, bringing such ordinances under the current requirements of the statute.

This bill is projected to have no fiscal impact.

The bill provides an effective date of October 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Creation of Housing Authorities

Public housing authorities (PHA) are created at municipal, county[1], and regional levels.[2] While authorized by statute, housing authorities may not transact any business or exercise their statutory powers until such time as the governing body of the municipality or county declares by resolution that there is a need for a housing authority to function in the jurisdiction. This determination may be made by the governing body of the municipality or county on its own motion or upon the filing of a petition signed by 25 residents of the jurisdiction asserting that there exists a need for such an authority and requesting that the governing body so declare.[3] The governing body may adopt such a resolution if it finds the following:

- Insanitary or unsafe inhabited dwelling accommodations exist in the city or county; or
- There is a shortage of safe or sanitary dwelling accommodations in the city or county available to persons of low income at rentals they can afford.[4]

Upon notification of the adoption of such a resolution, the mayor of a city, or the Governor, shall appoint commissioners of the housing authority for the city or county, respectively.[5]

Additionally, if the governing body of two or more contiguous counties each declares by resolution the need for one housing authority to exercise powers and other functions for all such counties, a regional housing authority will be created; and any housing authorities created, for each individual county, shall cease to exist except for the purpose of winding up their respective affairs and executing a deed to the regional housing authority. The governing body of a county shall not adopt a resolution of this kind if its current county housing authority has any outstanding obligations, unless:

- All obligees of such county housing authority and any parties to any contracts, bonds, notes, or other obligations of such county housing authority agree to substitute the regional housing authority in lieu of the county housing authority on all such contracts, bonds, notes, or other obligations; and
- The commissioners of each county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of the county housing authority to the regional housing authority.[6]

Furthermore, the governing body of each of two or more contiguous counties must declare by resolution that:

- Insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe and sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford; and

[1] A county housing authority shall operate in all areas of the county except those portions that lie within the territorial boundaries of any city (defined as any city or town having a population of more than 2,500 according to the last state or federal census). Ss. 421.27(3) and 421.03(2), F.S.
[2] Ss. 421.04, 421.27, and 421.28, F.S.; A regional housing authority shall operate in all counties for which the regional housing authority was created except the portions of the counties that lie within the territorial boundaries of cities. Ss. 421.29(1) and 421.03(2), F.S.
[3] Ss. 421.04(1) and 421.27(1), F.S.
[4] S. 421.04(2), F.S.; In determining whether dwelling accommodations are unsafe or insanitary the governing body may take into consideration the following: the degree of overcrowding, the percentage of land coverage, the light, air, space and access available to the inhabitants, the size and arrangements of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. S. 421.04(2)(b), F.S.
[5] S. 421.27(2), F.S.
[6] S. 421.28(1), F.S.

- A regional housing authority would be a more efficient or economical administrative unit than the housing authority of such county to carry out the purposes of this Housing Authorities Law in such county.[7]

Powers of Housing Authorities

PHAs are authorized to administer fair housing ordinances and other ordinances adopted by municipalities, counties, or other authorities contracting for administrative services.[8]

Public Housing Authority Agency Plans

PHAs must submit annual plans to the U.S. Department of Housing and Urban Development (HUD) for approval. These plans must include a statement of the PHA's policies and rules regarding ownership of pets in public housing.[9]

PHAs may impose reasonable requirements on residents of public housing regarding pet ownership, which may include prohibitions against types of animals that are classified as dangerous[10] and individual animals based on certain factors, such as the size and weight of the animal.

Currently, some PHAs include provisions in their policies prohibiting pets based on breed, behavior, or training of the pet.[11] However, some regulations based on breed do not depend on a finding that the pet is vicious or dangerous. Additionally, the definition of "dangerous dog" under Florida law is not uniformly applied in all PHA policies.[12]

Local Restrictions Regarding Dangerous Dogs

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be breed specific.[13] Ordinances adopted prior to October 1, 1990, are exempt from these statutory requirements.[14]

Florida law defines a "dangerous dog" as any dog that according to the records of the appropriate authority:[15]

- Has aggressively bitten, attacked, or endangered or inflicted severe injury[16] on a human being on public or private property;

[7] S. 421.28(3), F.S.; No governing body shall adopt a resolution of this kind unless a public hearing has first been held. S. 4 21.29(7), F.S.
[8] S. 421.08(6), F.S.
[9] 42 U.S.C.A. s.1437c-1; *See also* 24 C.F.R. s. 903.7(n) (The policies must be in accordance with section 31 of the 1937 Act (42 U.S.C. s. 1437z-3)).
[10] Classifications must comply with state and local law. 24 C.F.R. s. 960.707(b)(3).
[11] *See e.g.,* Tampa Housing Authority, https://www.thafl.com/Departments/Real-Estate-Development/library/PHA-PLAN.pdf (last visited Mar. 8, 2023) (forbidding "Pets of a known vicious or dangerous disposition, i.e. Pit bulls, Doberman pinchers"); St. Petersburg Housing Authority, https://www.stpeteha.org/plugins/show_image.php?id=1912 (last visited Mar. 8, 2023) (prohibiting "any animal deemed to be potentially harmful to the health or safety of others, including attack or fight trained dogs . . . certain breeds may be prohibited at the discretion of [St. Petersburg Housing Authority]"); Key West Housing Authority, https://www.kwha.org/egov/documents/1614973714_73249.pdf, Chapter 10: Pet Policy, p. 3 (last visited Mar. 8, 2023) (prohibiting "vicious or intimidating pets. Dog breeds including pitbull, rottweiler, Doberman, are considered vicious or intimidating breeds").
[12] *See* S. 767.11(1), F.S.
[13] A local government may only enact additional restrictions or requirements on the owners of dogs who have already been declared "dangerous" as defined in s. 767.11, F.S. This section does not authorize or prohibit additional restrictions or requirements on owners of dogs who have not been declared "dangerous." *Hoesch v. Broward County*, 53 So. 3d 1177 (Fla. 4th DCA 2011).
[14] S. 767.14, F.S.; Because of the 1990 grandfather provision, Miami-Dade County and the City of Sunrise are local governments in Florida with breed specific ordinances currently in effect. Miami-Dade County Ord. No. 89-22, § 2, 4-4-89; City of Sunrise Ord. No. 251-A, § 2(4-17), 5-2-89. Miami-Dade's ordinance provides that pit bull dogs are banned from purchase, from being brought into Miami-Dade County, or otherwise acquired and regulated due to unique history, nature and characteristics which require special regulation. Miami-Dade County Ord. No. 89-22, § 2, 4-4-89.
[15] Local governments may not alter the statutory definition of "dangerous dog." *See Hoesch*, 53 So. 3d at 1180-1181.
[16] "Severe injury" is defined as any physical injury resulting in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery. S. 767.11(3), F.S.

- Has more than once severely injured or killed a domestic animal while off the owner's property; or
- Has, when unprovoked[17], chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.[18]

Process for Classification of Dogs as Dangerous

An animal control officer[19] is typically the person who would investigate an incident involving a dog. In areas unserved by an animal control authority,[20] the sheriff assumes the duties required of an animal control officer.[21]

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous.[22] An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held.[23] A dog that is being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.[24]

The animal control authority may not declare a dog as dangerous if:
The injured person was unlawfully on the property, or if lawfully on the property was tormenting, abusing, or assaulting the dog or its owner or a family member; or
The dog was protecting a person within the immediate vicinity of the dog from an unjustified attack or assault.[25]

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous and if sufficient cause is found, provide the owner an opportunity for a hearing before making a final determination regarding the classification or penalty.[26] The animal control authority must provide written notice of sufficient cause and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformity with how service of process is made.

The owner has seven calendar days from receiving the notice to file a written request for a hearing. The hearing officer must hold the hearing as soon as possible, no more than 21 calendar days, and no sooner than five days after receiving the request for hearing.[27] If a hearing is not timely requested the authority's determination becomes final.

Within 14 days after the classification as a dangerous dog by the animal control authority, the owner must register the dog with the animal control authority and renew the certification annually. Vaccination, enclosure, warning sign, and identification requirements must then be followed. The owner must immediately notify the animal control authority if the dog is loose, bites or attacks a person or another animal, or if there is any other change in status. A dangerous dog must remain in its enclosure at all

[17] "Unprovoked" is defined as a victim who conducted himself or herself peacefully and lawfully was bitten or chased in a menacing fashion or attacked by a dog. S. 767.11(2), F.S.
[18] S. 767.11(1), F.S.
[19] "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve seizure and impoundment of any animal. See s. 767.11(6), F.S.
[20] "Animal control authority" means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control law of the city, county, or state. See s. 767.11(5), F.S.
[21] Section 767.11(5) and (6), F.S.
[22] Section 767.12(1), F.S.
[23] Section 767.12(1)(a), F.S.
[24] Section 767.12(1)(b), F.S.
[25] Section 767.12(2)(a-b), F.S.
[26] Section 767.12(3), F.S.
[27] Section 767.12(3), F.S.

times unless it is muzzled and restrained by a chain or leash. Any violation of these requirements is a noncriminal infraction publishable by a fine, not to exceed $500.[28]

In addition to civil penalties, the owner of a dangerous dog can be charged with the following criminal violations:

1st degree misdemeanor if the dog has previously been declared "dangerous" and it attacks or bites a person or domestic animal without provocation.[29]

2nd degree misdemeanor if the dog has not previously been declared "dangerous" but causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog's dangerous propensities.[30]

3rd degree felony if the dog has previously been declared "dangerous" and it attacks and causes severe injury to or death of any human.[31]

Effect of Proposed Changes

The bill adds size and weight to the prohibited dog characteristics which a local government may not use to regulate dogs in their jurisdiction. The bill removes the exemption for local ordinances adopted prior to October 1, 1990, requiring those ordinances to comply with these statutory restrictions.

The bill authorizes PHAs to adopt policies imposing restrictions or additional requirements on owners of dogs as long as such requirements are not specific to breed, weight, or size, and specifically allows the adoption of restrictions on owners of dogs that have been deemed dangerous, as defined by Florida law. The bill authorizes PHAs to develop procedures or criteria to aid in the implementation of these policies.

B. SECTION DIRECTORY:

Section 1: Amends s. 767.14, F.S., concerning the authorization of additional local restrictions related to dangerous dogs.

Section 2: Provides an effective date of October 1, 2023.

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:

[28] Section 767.12 (7), F.S.
[29] Section 676.13(1), F.S.
[30] Section 767.136(1), F.S.
[31] Section 767.13(2), F.S.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor authorizes administrative rulemaking by executive agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the authorization of restrictions concerning dogs; amending s. 767.14, F.S.; authorizing public housing authorities to adopt certain policies relating to dogs; restricting the types of ordinances and policies that may be adopted; removing an exemption for local breed-specific ordinances adopted before a specified date; providing an effective date.

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

Section 1. Section 767.14, Florida Statutes, is amended to read:

767.14 Additional local restrictions authorized.—This act does not limit any local government or public housing authority from adopting an ordinance or a policy, respectively, to address the safety and welfare concerns caused by attacks on persons or domestic animals, placing further restrictions or additional requirements on owners of dogs that have bitten or attacked persons or domestic animals, or developing procedures and criteria for the implementation of this act, provided that no such regulation is specific to breed, weight, or size and that the provisions of this act are not lessened by such additional regulations or requirements. ~~This section does not apply to any local ordinance adopted prior to October 1, 1990.~~

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

Section 2. This act shall take effect October 1, 2023.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 947 Manatee County
SPONSOR(S): Robinson, W.
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	17 Y, 0 N	Mwakyanjala	Darden
2) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution requires the state to be divided into counties and recognizes two types of county governments: those operating under a county charter and those without a charter. Non-charter county governments have the power of self-government as is provided by general or special law. However, an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

Manatee County is located on the Florida Gulf Coast and is home to Anna Maria Island. Within Anna Maria Island are three municipalities: Anna Maria, Bradenton Beach, and Holmes Beach. There are tensions between the City of Holmes Beach and Manatee County revolving around public parking and the potential need for a parking garage within Holmes Beach. Holmes Beach has recently passed an ordinance prohibiting multi-level parking facilities within the boundaries of the city.

The bill authorizes Manatee County to construct one parking facility within the City of Holmes Beach. The bill provides specifications for certain aspects of the parking garage and allows the county to issue necessary permit for its construction.

The Economic Impact Statement (EIS) filled with the bill states that the estimated cost for the parking garage will be $45 million for the construction of the parking garage in the first fiscal year and $400,000 in the second fiscal year for annual maintenance.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Non-Charter Counties

The Florida Constitution requires the Legislature to divide the state into counties.[1] The Florida Constitution recognizes two types of county governments: those operating under a county charter and those without a charter.[2] Non-charter county governments have the power of self-government as is provided by general or special law.[3] The board of county commissioners of a non-charter county may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law. However, a county ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.[4] Manatee County is a non-charter county.[5]

Anna Maria Island Parking Issues

Anna Maria Island is an island located within Manatee County that is home to three municipalities: Anna Maria, Bradenton Beach, and Holmes Beach.[6] Recent years have seen tensions between the city of Holmes Beach and the county revolving around parking availability on Anna Maria Island, specifically the Holmes Beach portion of the island. The main issue revolves around the county-owned Manatee Public Beach. County officials claim that there is insufficient available parking in Holmes Beach to accommodate tourists and nonresident travel to the island and Manatee Public Beach.[7] County officials estimate that available public parking spaces has decreased from 2,400 parking spaces before the pandemic to 1,260 available public parking spaces today. Of the reduced spaces, 640 have been converted from spaces available to the general public to ones that require a permit. The overall reduction was due to various reclassifications of neighborhood parking and the elimination of street spaces.

In April 2022, discussions were held between the City of Holmes Beach, Manatee County officials, and members of the Manatee County state legislative delegation with the hope of resolving the issue.[8] A few weeks after the meeting, the City of Holmes Beach passed an ordinance restricting multi-level parking facilities within the city.[9]

Effect of Proposed Changes

The bill authorizes Manatee County, notwithstanding any law, local ordinance, or local regulation, to construct a parking facility within the City of Holmes Beach. The bill allows the County to issue a permit for construction of a parking facility. The parking facility may not exceed 36 feet, except for elevator shafts, flag poles, heating and air conditioning, solar collectors, and other similar equipment. The bill requires any rooftop features of the garage to cover no more than one-third of the garage's total area

[1] Art. VIII, s. 1(a), Fla. Const.
[2] Art. VIII, s. 1(f)-(g), Fla. Const.
[3] Art. VIII, s. 1(f), Fla. Const.
[4] Art. VIII, s. 1(f), Fla. Const.
[5] Fla. Assoc. of Counties, *Charter County Information*, https://www.fl-counties.com/about-floridas-counties/charter-county-information/ (last visited Mar. 12, 2023).
[6] Anna Maria Vacations, *What are the Differences Between Anna Maria, Holmes Beach, and Bradenton?*, available at https://www.annamaria.com/three-ami-cities-anna-maria-holmes-beach-bradenton/#:~:text=Anna%20Maria%20Island%20is%20made,features%20that%20make%20them%20unique. (last visited Mar. 12, 2023).
[7] Florida Politics, *Are parking woes the start of an existential crisis for Holmes Beach?*, available at https://floridapolitics.com/archives/587626-are-parking-woes-the-start-of-an-existential-crisis-for-holmes-beach/ (last visited Mar. 12, 2023).
[8] *Id*.
[9] City of Holmes Beach, Ordinance No. 22-14.

and to set back one foot from the edge of the foot for every foot the feature extends above the roof's surface.

The parking facility must be located in a public park managed by the county. The facility may also include certain amenities, including public sanitary facilities, retail and dining establishments, and other recreational and entertainment amenities. The bill allows the county to issue permits for the construction of the parking facility and any other structure build pursuant to the provisions of the bill.

The Economic Impact Statement (EIS) filled with the bill states that the estimated cost for the parking garage will be $45 million for the construction of the parking garage in the first fiscal year and $400,000 in the second fiscal year for annual maintenance. The estimate cost for construction is based on a minimum of 1500 parking spots at $30,000 per spot.

B. SECTION DIRECTORY:

Section 1: Authorizes Manatee County to construct one parking facility within the City of Holmes Beach.

Section 2: Provides that the bill shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? January 19, 2023.

WHERE? *The Bradenton Herald*, a daily newspaper published in Manatee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to Manatee County; authorizing the county to construct a certain parking facility and amenities within the territorial boundaries of the City of Holmes Beach under certain circumstances; requiring a permit for such construction to be issued by the county; providing an effective date.

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

Section 1. Notwithstanding any law, local ordinance, or local regulation to the contrary, Manatee County may, as the board of county commissioners deems necessary for public health, safety, and welfare, construct one parking facility within the territorial boundaries of the City of Holmes Beach. The parking facility may not exceed a height of 36 feet as measured from the crown of the road at the front center of the property to the highest point of any portion of the building. Exempt from the height limitations set forth in this act are elevator shafts; flagpoles and similar devices; and heating and air conditioning, solar collectors, and similar equipment with appropriate screening. Not more than one-third of the total roof area may be consumed by such features. Such features must be set back from the edge of the roof a minimum distance of 1 foot for every foot by which such features extend above the roof surface of the

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

principal building to which they are attached. The parking facility must be located in a public park managed by the county and may include on its premises amenities, including public sanitary facilities, retail and dining establishments, and other recreational and entertainment amenities. A permit for the construction of a parking facility and any other structure pursuant to this act must be issued by the county.

Section 2. This act shall take effect upon becoming a law.

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 947 by Rep. Robinson, W.
Manatee County

AMENDMENT SUMMARY
March 22, 2023

Amendment 1 by Rep. Robinson, W. (Line 15):

- Allows Manatee County to construct one parking facility within the City of Holmes Beach without obtaining any permit, approval, consent, or letter of no objection from the City of Holmes Beach.

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: Regulatory Reform & Economic Development Subcommittee

Representative Robinson, W. offered the following:

Amendment

Remove line 15 and insert:

territorial boundaries of the City of Holmes Beach, without obtaining any permit, approval, consent, or letter of no objection from the City of Holmes Beach. The parking

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1117 Medical Treatment of Animals
SPONSOR(S): Buchanan
TIED BILLS: **IDEN./SIM. BILLS:** SB 554, SB 1600

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) Commerce Committee			

SUMMARY ANALYSIS

In Florida, the practice of "veterinary medicine" means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease. Veterinarians are regulated by the Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) pursuant to ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practice to protect public health and safety.

Current law defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. Veterinarians are permitted to prescribe drugs in the course of veterinary practice; however, the veterinarian must be either personally acquainted with the keeping and caring of the animal and have recently seen the animal, or have made medically appropriate and timely visits to the premises where the animal is kept before prescribing drugs in the course of practice.

The use of electronic communications to facilitate patient health care (telemedicine) is not addressed in the practice act and is not specifically prohibited or authorized in Florida. However, medical doctors may practice telemedicine in Florida and may establish a patient relationship with a patient evaluation via telemedicine under certain circumstances.

The bill creates an act cited as the Providing Equity in Telemedicine Services (PETS) Act, which establishes a framework for the practice of veterinary telemedicine as follows:

- Authorizes a veterinarian practicing veterinary telemedicine to order, prescribe, or make available medicinal drugs or drugs defined in ch. 465, F.S., the Florida Pharmacy Act.
- Limits a veterinarian's authority to prescribe controlled substances while practicing telemedicine to situations where the veterinarian has previously performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept.
- Allows veterinarians who are personally acquainted with the caring or keeping of an animal or group of animals for food-producing animal operations, who has recently seen the animal(s) or has made medically appropriate and timely visits to practice telemedicine for these animal(s).
- Specifies that only Florida licensed veterinarians may practice veterinary telemedicine, and grants the Board jurisdiction over the practice of veterinary telemedicine.
- Allows an animal control authority under the "indirect supervision" of a veterinarian to administer rabies vaccinations.

The bill is not expected to have a fiscal impact on state or local government, and may have a positive fiscal impact on the private sector.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Practice of Veterinary Medicine

The Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practices to protect public health and safety.[1]

A "veterinarian" is a health care practitioner licensed by the Board to engage in the practice of veterinary medicine in Florida[2] and they are subject to disciplinary action from the Board for various violations of the practice act.[3]

The practice of "veterinary medicine" is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[4]

Veterinary medicine includes, with respect to animals:[5]

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);[6] and
- Other branches or specialties of veterinary medicine.

The practice act does not apply to the following categories of persons:

- Veterinary aides, nurses, laboratory technicians, preceptors,[7] or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision[8] of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon request of a Florida-licensed veterinarian on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner.
- Faculty veterinarians when they have assigned teaching duties at accredited[9] institutions;

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[1] S. 474.201, F.S.
[2] S. 474.202(11), F.S.
[3] Ss. 474.213 & 474.214, F.S.
[4] *See* s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.
[5] *See* s. 474.202(13), F.S. S. 474.202(1), F.S., defines "animal" as "any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead."
[6] The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. *See* https://www.therio.org/ (last visited Mar. 6, 2023).
[7] A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. *See also* https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary (last visited Mar. 6, 2023).
[8] The term "responsible supervision" is defined in s. 474.202(10), F.S., as the "control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services" delegated to unlicensed personnel.
[9] Ss. 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

- Certain graduated intern/resident veterinarians of accredited institutions;
- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;
- Certain doctors of veterinary medicine employed by a state agency or the United States Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons[10] that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.[11]

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.[12] Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.[13]

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to:

- Render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.
- Waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint.[14]

For Fiscal Year 2020-2021, there were 12,156 actively licensed veterinarians in Florida. DBPR received 472 complaints, which resulted in 17 disciplinary actions.[15]

Veterinarian/Client/Patient Relationship

The practice act defines a "patient" as any animal for which the veterinarian practices veterinary medicine.[16]

The practice act defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment.[17]

Veterinarians are permitted to prescribe drugs in the course of veterinary practice, but may be disciplined by the Board for certain related violations, including ordering, prescribing, or making available medicinal drugs or drugs[18] or controlled substances[19] for use other than for the specific treatment of animal patients for which there is a documented VCPR and without:

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[10] *See* s. 474.203(6), F.S., which states that the exemption applies to "[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof...."
[11] *See* s. 474.203, F.S.
[12] S. 474.215(1), F.S.
[13] S. 474.216, F.S.
[14] S. 474.2185, F.S.
[15] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2020-2021*, http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Mar. 6, 2023).
[16] S. 474.202(8), F.S.
[17] S. 474.202(12), F.S.
[18] S. 465.003(8), F.S.
[19] S. 893.02(4), F.S.

- Having sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Being available to provide for follow-up care and treatment in case of adverse reactions or failure of the regimen of therapy; and
- Maintaining records which document patient visits, diagnosis, treatment, and other relevant information required under the practice act.[20]

Veterinary Telemedicine

The use of electronic communications to facilitate patient health care (telemedicine) is not addressed in the practice act and is not specifically prohibited or authorized for practitioners of veterinary medicine in Florida.[21]

Veterinary Telemedicine During the Pandemic

On March 24, 2020, the U.S. Food and Drug Administration (FDA) announced that it would temporarily suspend enforcement of certain prescription limitations in order to allow veterinarians to better utilize telemedicine to address animal health needs during the COVID-19 pandemic. Specifically, the FDA provided guidance related to suspending the enforcement of the animal examination and premises visit VCPR requirements relevant to FDA regulations governing **Extra-label Drug Use in Animals**[22] and **Veterinary Feed Directive Drugs**.[23] This allowed veterinarians to prescribe or authorize the use of drugs without direct examination or making visits to patients, in an effort to limit human-to-human interaction and potential spread of COVID-19 in the community.[24]

According to the FDA, veterinarians are licensed by their state veterinary licensing board and must meet the requirements of the licensing board to practice in that state. FDA regulates the devices and drugs that veterinarians use, and the conditions under which veterinarians may **prescribe drugs for extra-label uses**. When an approved drug is used in a manner other than what is stated on the label, it is an extra-label use. This is commonly called an "off-label" use because the drug is used in a way that is "off the label."[25]

On March 27, 2020, DBPR issued emergency order EO 2020-04, which suspended any restriction of ch. 474, F.S., or ch. 61G-18, F.A.C., which would prohibit an active Florida-licensed veterinarian from practicing telemedicine on a patient. The order specified that attending veterinarians must be comfortable assessing the patient remotely and feel able to exercise good clinical judgment to assist the patient.[26]
The FDA withdrew its temporary guidance suspending the enforcement of the animal examination and premises visit VCPR requirements on February 21, 2023.[27]

DBPR's emergency order allowing Florida-licensed veterinarians to practice telemedicine ended with

[20] S. 474.214(1)(y)., F.S.
[21] R. 64B8-9.0141, F.A.C. Currently, medical doctors may practice telemedicine in Florida in a patient relationship with a patient evaluation, under certain circumstances.
[22] 21 C.F.R. part 530.
[23] 21 C.F.R. s. 558.6.
[24] U.S. Food and Drug Administration, *Coronavirus (COVID-19) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic*, https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-helps-facilitate-veterinary-telemedicine-during-pandemic (last visited Mar. 6, 2023).
[25] .S. Food and Drug Administration, *What FDA Does and Does Not Regulate*, https://www.fda.gov/animal-veterinary/animal-health-literacy/what-fda-does-and-does-not-regulate#top (last visited Mar. 6, 2023).
[26] Department of Business and Professional Regulation, *Emergency Order EO 2020-04*, Mar. 27, 2020, http://www.myfloridalicense.com/dbpr/os/documents/EO_2020-04.pdf (last visited Mar. 6, 2023).
[27] 87 C.F.R. 78111.

the expiration of Florida's COVID-19 state of emergency (EO 20-52) on Saturday June 26, 2021.[28]

Veterinary Telemedicine in Other States

The use of telemedicine by veterinarians varies by state. Some states allow telemedicine to be used at the veterinarian's discretion, others allow it after the establishment of a VCPR, some do not allow it at all, and others limit telemedicine for purposes of prescribing medication or controlled substances.

According to the Veterinary Virtual Care Association, state laws relating to veterinary telemedicine generally fall within the following categories: six states either enable vets to use telemedicine to establish a VCPR or have no VCPR; seven states require the provider to have "recently seen" or become "acquainted with" the animal; 25 states require an examination or a physical examination for a VCPR; and 10 states expressly prohibit using telemedicine to establish a VCPR. Florida is not included among these categories.[29]

Virginia allows veterinarians to practice telemedicine. In addition, it allows a veterinarian who performs or has performed an appropriate examination of a patient to prescribe certain controlled substances to a patient via the practice of telemedicine. The Virginia Board of Veterinary Medicine adopted guidance effective September 17, 2020, for telehealth in the practice of veterinary medicine, which indicates that:

> "Using telehealth technologies in veterinary practice is considered a method of service delivery. The current, applicable regulations apply to all methods of service delivery, including telehealth. The licensee is responsible for using professional judgment to determine if the type of service can be delivered via telehealth at the same standard of care as in-person service."[30]

The Idaho Board of Veterinary Medicine provides the following guidance on telehealth:

> "The veterinarian must employ sound profession judgment to determine whether using Telehealth is appropriate in particular circumstances each and every time animal care is provided and only provide medical advice or treatment via Telehealth to the extent that it is possible without a hands on examination. A veterinarian using Telehealth must take appropriate steps to obtain Informed Consent, establish the VCPR and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of Telehealth as a component of, or in lieu of, hands on medical care, while others are not."[31]

The state of Oklahoma only allows a veterinarian to prescribe drugs via telemedicine under the following conditions:

> "The veterinarian accepts that he or she cannot prescribe drugs when practicing via telehealth alone, unless the veterinarian has sufficient knowledge of the animal or group of animals by virtue of a history and inquiry, and either physical examination or medically

[28] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.
[29] Veterinary Virtual Care Association, Veterinary Telemedicine Regulatory Map, https://vvca.org/telemedicine-map/ (last visited Mar. 19, 2023).
[30] Virginia Board of Veterinary Medicine, *Guidance for Telehealth in the Practice of Veterinary Medicine, Guidance Document: 150-25*, https://www.dhp.virginia.gov/media/dhpweb/docs/vet/guidance/150-25.pdf (last visited Mar. 6, 2023).
[31] Idaho Veterinary Medical Association, *State specific questions for Idaho – Essential services, taxes, telehealth, IDAHO BOARD OF VETERINARY MEDICINE – TELEMEDICINE STATEMENT*, https://www.ivma.org/2020/03/26/idaho-essential-services-extended-tax-filing-deadline/ (last visited Mar. 6, 2023).

appropriate and timely visits to the premises where the animal or group of animals is kept."[32]

The state of Washington only allows telemedicine after a VCPR has been established:

> "The veterinarian shall not establish a veterinary-client-patient relationship solely by telephonic or other electronic means. However, once established, a veterinary-client-patient relationship may be maintained between medically necessary examinations via telephone or other types of consultations."[33]

Michigan recently repealed the need for an **in-person** exam prior to practicing telemedicine. Effective April 15, 2021, a veterinarian providing a "telehealth service" is required to have sufficient knowledge of the animal patient by having recently examined the animal patient in person or obtained current knowledge of the animal patient through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, or have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.[34]

Telehealth for Medical Doctors

Current law broadly defines "telehealth" as the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to:[35]

- Assessment, diagnosis, consultation, treatment, and monitoring of a patient;
- Transfer of medical data;
- Patient and professional health-related education;
- Public health services; and
- Health administration.

Telehealth does not include audio-only telephone calls, e-mail messages, or facsimile transmission under Florida law.[36] No express authority is needed to communicate using these methods.

Health care services may be provided via telehealth by a Florida-licensed health care practitioner, a practitioner licensed under a multistate health care licensure compact of which Florida is a member,[37] or a registered out-of-state-health care provider.[38]

Out-of-state telehealth providers must register biennially with the Department of Health (DOH) or the applicable board to provide telehealth services, within the relevant scope of practice established by Florida law and rule, to patients in this state. To register or renew registration as an out-of-state telehealth provider, the health care professional must:

- Hold an active and unencumbered license, which is substantially similar to a license issued to a Florida practitioner in the same profession, in a U.S. state or jurisdiction and
- Not have been subject to licensure disciplinary action during the five years before submission of the registration application;[39]
- Not be subject to a pending licensure disciplinary investigation or action;
- Not have had license revoked in any state or jurisdiction;
- Designate a registered agent in this state for the service of process;

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[32] Oklahoma State Board of Veterinary Medical Examiners, Board Telemedicine/Telehealth Position Statement, https://www.okvetboard.com/veterinarian-faq/95-board-telemedicine-telehealth-position-statement (last visited Mar. 6, 2023).
[33] Wash. Rev. Code § 246-933-200(2).
[34] Mich. Gen. R. 338.4901a.
[35]
[36] S. 456.47(1), F.S.
[37] Florida is a member of the Nurse Licensure Compact. *See* s. 464.0095, F.S.
[38] S. 456.47(4), F.S.
[39] The bill requires DOH to consult the National Practitioner Data Bank to verify whether adverse information is available for the registrant.

- Maintain professional liability coverage or financial responsibility, which covers services provided to patients not located in the provider's home state, in the same amount as required for Florida-licensed practitioners;[40] and
- Prominently display a link to the DOH website, described below, which provides public information on registered telehealth providers.[41]

Telehealth Standards of Practice

Current law sets the standard of care for telehealth providers at the same level as the standard of care for health care practitioners or health care providers providing in-person health care services to patients in this state. This ensures that a patient receives the same standard of care irrespective of the modality used by the health care professional to deliver the services. A patient receiving telehealth services may be in any location at the time services are rendered and a telehealth provider may be in any location when providing telehealth services to a patient.[42]

Practitioners may perform a patient evaluation using telehealth. A practitioner using telehealth is not required to research a patient's medical history or conduct a physical examination of the patient before providing telehealth services to the patient if the telehealth provider is capable of conducting a patient evaluation in a manner consistent with the applicable standard of care sufficient to diagnose and treat the patient when using telehealth.

Emergency Orders

On January 31, 2020, the U.S. Secretary of HHS issued a public health emergency.[43] On March 16, 2020, the DEA published a COVID-19 Information page on the Diversion Control Division website, authorizing DEA-registered practitioners to issue prescriptions for all Schedule II-V controlled substances to patients without first conducting an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
- The evaluation is conducted using an audio-visual, real-time, two-way interactive communication system.
- The practitioner is acting in accordance with applicable federal and state law.[44]

On March 16, 2020, Surgeon General Scott Rivkees executed DOH Emergency Order 20-002 authorizing certain out-of-state physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses to provide telehealth in Florida without the need to register as a telehealth

[40] Florida law requires physicians, acupuncturists, chiropractic physicians, dentists, anesthesiologist assistants, advanced practice registered nurses, and licensed midwives to demonstrate $100,000 per claim and an annual aggregate of $300,000 of professional responsibility (*see* ss. 458.320 and 459.0085, F.S.; r. 64B1-12.001. F.A.C; r. 64B2-17.009, F.A.C.; 64B5-17.0105, F.A.C.; r. 64B8-31.006 and 64B15-7.006, F.A.C.; r. 64B9-4.002, F.A.C.; and r. 64B24-7.013, F.A.C.; respectively). Podiatric physicians must demonstrate professional responsibility in the amount of $100,000 (*see* r. 64B18-14.0072, F.A.C.).

[41] S. 456.47(4), F.S.

[42] S. 456.47(2), F.S.

[43] Determination that a Public Health Emergency Exists, Alex M. Azar II, Secretary of U.S. Department of Health and Human Services (January 31, 2020) https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx (last visited Mar. 6, 2023).

[44] Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, *COVID-19 Information Page*, https://www.deadiversion.usdoj.gov/coronavirus.html (last visited Jan. 5, 2022); Letter from Thomas Prevoznik, Deputy Assistant Administrator, Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, to DEA Qualifying Practitioners and Other Practitioners, (Mar. 31, 2020) https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20(Final)%20+Esign.pdf (last visited Mar. 6, 2023).

provider under s. 456.47(4), F.S.[45] This emergency order ended with the expiration of Florida's COVID-19 state of emergency (EO 20-52) on June 26, 2021.[46]

The Surgeon General also executed DOH Emergency Order 20-003[47] authorizing certain out-of-state clinical social workers, marriage and family therapists, mental health counselors, and psychologists to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S. This emergency order also ended on June 26, 2021.[48]

Controlled Substances – Florida Law

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. This chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. The scheduling of substances in Florida law is generally consistent with the federal scheduling of substances under 21 U.S.C. s. 812:

- A Schedule I substance has a high potential for abuse and no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples include heroin and lysergic acid diethylamide (LSD).
- A Schedule II substance has a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples include cocaine and morphine.
- A Schedule III substance has a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples include lysergic acid; ketamine; and some anabolic steroids.
- A Schedule IV substance has a low potential for abuse relative to the substances in Schedule III, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule III. Examples include alprazolam, diazepam, and phenobarbital.
- A Schedule V substance has a low potential for abuse relative to the substances in Schedule IV, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Examples include low dosage levels of codeine, certain stimulants, and certain narcotic compounds.

Controlled Substances – Federal Law

The Federal Controlled Substances Act[49] also classifies controlled substances into schedules based on the potential for abuse and whether there is a currently accepted medical use for the substance. The Drug Enforcement Administration (DEA) is required to consider the following when determining where to schedule a substance:[50]

- The substance's actual or relative potential for abuse;
- Scientific evidence of the substance's pharmacological effect, if known;

[45] Department of Health, State of Florida, *Emergency Order DOH No. 20-002* (Mar. 16, 2020) http://floridahealthcovid19.gov/wp-content/uploads/2020/03/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf (last visited Mar. 6, 2023).
[46] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.
[47] Department of Health, State of Florida, *Emergency Order DOH No. 20-003* (Mar. 21, 2020) https://s33330.pcdn.co/wp-content/uploads/2020/03/DOH-EO-20-003-3.21.2020.pdf (last visited Mar. 6, 2023).
[48] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.
[49] 21 U.S.C. s. 812.
[50] 21 U.S.C. s. 811(c).

- The state of current scientific knowledge regarding the substance;
- The substance's history and current pattern of abuse;
- The scope, duration, and significance of abuse;
- What, if any, risk there is to public health;
- The substance's psychic or physiological dependence liability; and
- Whether the substance is an immediate precursor of a substance already controlled.

Telehealth Prescribing of Controlled Substances

Federal law specifically prohibits prescribing controlled substances via the Internet without an in-person evaluation, but the Ryan Haight Online Pharmacy Consumer Protection Act (Haight Act),[51] signed into law in October 2008[52] created a pathway for telehealth practitioners to dispense controlled substances via telehealth. The practitioner is still subject to the requirement that all controlled substance prescriptions be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice. But, **once an in-person evaluation of the patient has occurred**, the practitioner may provide future prescriptions for **controlled substances** for that patient using telehealth services.[53]

Florida law currently prohibits a telehealth provider (human) from using telehealth services to prescribe a Schedule II controlled substance except when treating a psychiatric disorder, an inpatient at a licensed hospital, a patient receiving hospice services, or a resident of a nursing home facility. However, providers are allowed to prescribe Schedule III, IV, and V controlled substances using telehealth services without limitation.[54]

Prescription Drug Law for Veterinarians

In order to purchase, prescribe, administer or dispense controlled substances in Florida, veterinarians must obtain a license from the U.S. Drug Enforcement Administration (DEA). Florida does not require any additional licensure for veterinarians to purchase and prescribe controlled drugs.[55]

The DEA is a division within the U.S. Department of Justice and reports to the U.S. Attorney General. In consultation with the U.S. Secretary of the federal Department of Health and Human Services (HHS) and others, the Attorney General oversees the listing of substances on five schedules (Classes I, II, III, IV or V) of controlled agents as described in Title 21 United States Code (USC) of the Controlled Substances Act. The central mission of the DEA is to enforce controlled substances laws and regulations.[56]

With respect to veterinarians and other health professionals, the major focus of the DEA is to prevent illegal diversion of controlled prescription drugs for the purpose of illicit or non-medical uses. In order to legally purchase, dispense or prescribe controlled prescription drugs, a veterinarian must be licensed by the DEA. Prescription drugs that are regulated or controlled by the DEA include many important drugs that are used routinely by veterinarians. DEA-controlled drugs are tightly controlled at all aspects of manufacturing, distribution, ordering, storage, use and disposition.[57]

While veterinarians are allowed to write prescriptions for controlled drugs, they cannot order controlled drugs from their local pharmacy for "in-house" use nor for secondary re-sale. Like any other prescription, controlled drug prescriptions must be written for a specific patient and cannot be for

[51] Ryan Haight Online Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).
[52] 21 CFR s. 829, the in-person medical evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.
[53] *Id*.
[54] S. 456.47(2)(c), F.S.
[55] Thomas Vickory, PhD, DEA REGULATION OF CONTROLLED DRUGS, https://www.vetfolio.com/learn/article/florida-drug-laws-update-2013 (last visited Mar. 6, 2023).
[56] Thomas, *supra* note 46.
[57] Thomas, *supra* note 46.

general use. As a licensed DEA registrant, veterinarians are expected to create and maintain a system that provides strong safeguards against theft or diversion of controlled drugs in their practice.[58]

Two opioids are approved and marketed for use in animals, butorphanol and buprenorphine. Due to the limited number of approved and marketed veterinary opioids, veterinarians who need to use opioids to control pain in their patients generally use products approved for use in people.[59]

Rabies Vaccinations

All dogs, cats, and ferrets four months of age or older must be vaccinated **by a licensed veterinarian** against rabies with a vaccine that is licensed by the U.S. Department of Agriculture (USDA) for use in those species. The owner must have the animal revaccinated 12 months after the initial vaccination, and subsequent vaccinations must conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Violations of this requirement are a civil infraction, punishable as provided in s. 828.27(2), F.S.[60]

Currently, Florida law does not appear to allow anyone other than the veterinarian to administer the rabies vaccine. The law allows certain vaccines, anesthesia and tranquilization to be administered by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian while under the "immediate supervision" of a licensed veterinarian.[61] In addition, the following tasks may be performed without the licensed veterinarian on the premises:

- The administration of medication and treatment, **excluding vaccinations**, as directed by the licensed veterinarian; and
- The obtaining of samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.[62]

The Board has recognized that the following diseases are communicable to humans and are of public health significance, and as a result, **only a veterinarian** is authorized to immunize or treat an animal for these diseases. The diseases include:

- Brucellosis.
- Tuberculosis.
- Rabies.
- Equine Encephalomyelitis.[63]

Effect of the Bill

The bill allows licensed veterinarians to practice veterinary telemedicine on a limited basis, and indirectly supervise rabies vaccinations of impounded animals.

Regarding veterinary telemedicine, the bill:

- Defines "veterinary telemedicine" to mean the practice of veterinary medicine using synchronous, audiovisual, interactive telecommunications technology.
- Requires veterinarians to be currently licensed in order to practice veterinary telemedicine.
- Deems the practice to occur at the premises where the patient is located at the time a veterinarian practices veterinary telemedicine.
- Gives the Board jurisdiction over a veterinarian practicing veterinary telemedicine in this state, regardless of the location of the veterinarian's physical office.
- Requires veterinarians practicing telemedicine to provide the client with a statement containing:

[58] Thomas, *supra* note 46.
[59] U.S. FDA, *The Opioid Epidemic: What Veterinarians Need to Know*, https://www.fda.gov/animal-veterinary/resources-you/opioid-epidemic-what-veterinarians-need-know (last visited Mar. 6, 2023).
[60] S. 828.30(1), F.S.
[61] S. 474.202(5), F.S., defines "immediate supervision" or words of similar purport to mean a licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided.
[62] R. 61G18-17.005, F.A.C.
[63] R. 61G18-17.006, F.A.C.

    - The veterinarian's identity, license number, and contact information;
    - The contact for at least one physical veterinary clinic in the vicinity of the pet's location; and
    - Instructions for how to receive patient follow-up care or assistance if the veterinarian and client are unable to communicate because of a technological or equipment failure or if there is an adverse reaction to treatment.
- Requires the veterinarian to obtain from the client a signed and dated statement indicating the client has received the required information from the client statement.
- Authorizes a veterinarian practicing veterinary telemedicine to order, prescribe, or make available medicinal drugs.
- Limits a veterinarian's authority to order, prescribe, or make available controlled substances while practicing telemedicine to situations where the veterinarian has previously performed an in-person physical examination or made medically appropriate and timely visits to the premises where the patient is kept.
- Revises the requirement that a veterinarian have "seen the animal" in order to prescribe medicinal drugs and controlled substances, to instead require the veterinarian to have recently performed an examination of the patient either:
    - In person; or
    - By the use of veterinary telemedicine in compliance with s. 474.2021, F.S.
- Authorizes veterinarians who are personally acquainted with the caring and keeping of an animal or group of animals on food-producing animal operations on land classified as agricultural who has recently seen the animal or group of animals or has made medically appropriate and timely visits to the premises where the animal or group of animals is kept to practice veterinary telemedicine for animals on such operations in compliance with this section and applicable federal law.
- Requires veterinarians practicing telemedicine to employ sound, professional judgment to determine whether using veterinary telemedicine is an appropriate method for delivering medical advice or treatment to the patient and providing quality of care consistent with prevailing veterinary medical practice.
- Specifies that the practice of veterinary telemedicine in compliance with these provisions is not a quality-of-care violation, and a veterinarian may not be disciplined solely for practicing veterinary telemedicine.

Regarding rabies vaccinations, the bill:

- Allows an employee, agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian to administer rabies vaccinations to impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.
- Defines "indirect supervision," to mean the supervising veterinarian must be available for consultation through telecommunications but is not required to be on the premises during such consultation.
    - The supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under or at his or her direction and supervision.
- Authorizes veterinarians who supervise an employee, agent, or contractor of an animal control authority administering the rabies vaccination to an animal to affix his or her signature stamp in lieu of an actual signature.

B. SECTION DIRECTORY:

Section 1: Titles the act the "Providing Equity in Telemedicine Services (PETS) Act."

Section 2: Amends s. 474.202, F.S., relating to definitions.

Section 3: Creates s. 474.2021, F.S., relating to veterinary telemedicine.

Section 4: Amends s. 474.203, F.S., relating to exemptions.

Section 5: Amends s. 474.214, F.S., relating to disciplinary proceedings.

Section 6: Amends s. 474.2165, F.S., relating to ownership and control of veterinary medical patient records; report or copies of records to be furnished.

Section 7: Amends s. 828.30, F.S., relating to rabies vaccination of dogs, cats, and ferrets.

Section 8: Provides an effective date of July 1, 2023.

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:

   Indeterminate. Animal control authorities will be able to administer rabies vaccinations of impounded animals without a veterinarian having to be physically present. This may create a savings for local animal control authorities to the extent they are incurring extra veterinary costs associated with veterinarians being required to be onsite to administer rabies vaccinations.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Licensed veterinarians will be permitted to practice veterinary telemedicine, including limited prescription authority, thus giving them more flexibility in their practice. This will move them further toward equal footing with licensed health care providers in the state who are already allowed to practice telehealth.

Animal owners may have greater access to veterinarians and may feel more comfortable, especially during a state of emergency. Visitors and tourists with pets may be able to obtain veterinarian care while on vacation in Florida without the need for locating and transporting their animal to a veterinarian's office.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

3. Other:
   None.

B. RULE-MAKING AUTHORITY:

Current law appears to grant the Board sufficient authority to adopt rules to implement the provisions of this bill.[64]

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[64] S. 474.206, F.S.

A bill to be entitled

An act relating to the medical treatment of animals; providing a short title; amending s. 474.202, F.S.; defining the term "veterinary telemedicine"; creating s. 474.2021, F.S.; authorizing veterinarians to practice veterinary telemedicine; providing licensure requirements to practice veterinary telemedicine; providing jurisdiction of the Board of Veterinary Medicine; requiring a veterinarian practicing telemedicine to establish a veterinarian/client/patient relationship, provide the client with specified information, and employ certain professional judgments regarding the use of veterinary telemedicine; authorizing a veterinarian practicing telemedicine to order, prescribe, or make available specified medicinal drugs; prohibiting such veterinarian from ordering, prescribing, or making available controlled substances unless certain conditions are met; authorizing veterinarians to practice veterinary telemedicine for animals on certain animal operations if the veterinarian meets certain conditions; amending s. 474.203, F.S.; conforming provisions to changes made by the act; amending s. 474.214, F.S.; revising grounds for disciplinary action against a veterinarian; amending

s. 474.2165, F.S.; revising the definition of the term "records owner" to conform to changes made by the act; amending s. 828.30, F.S.; authorizing certain employees, agents, or contractors to administer rabies vaccinations under certain circumstances; providing that a supervising veterinarian assumes responsibility for any person working under the veterinarian's supervision or at his or her direction; defining the term "indirect supervision"; authorizing a veterinarian who indirectly supervises the administration of the rabies vaccination to affix his or her signature stamp in lieu of an actual signature on the rabies vaccination certificate; providing an effective date.

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

Section 1. This act may be cited as the "Providing Equity in Telemedicine Services (PETS) Act."

Section 2. Subsection (14) is added to section 474.202, Florida Statutes, to read:

474.202 Definitions.—As used in this chapter:

(14) "Veterinary telemedicine" means the practice of veterinary medicine using synchronous, audiovisual, interactive telecommunications technology.

Section 3. Section 474.2021, Florida Statutes, is created to read:

474.2021 Veterinary telemedicine.—

(1) A veterinarian may practice veterinary telemedicine.

(2) A veterinarian must hold a current license to practice veterinary medicine in this state in order to practice veterinary telemedicine. The practice of veterinary medicine is deemed to occur at the premises where the patient is located at the time the veterinarian practices veterinary telemedicine.

(3) The board has jurisdiction over a veterinarian practicing veterinary telemedicine in this state, regardless of where the veterinarian's physical office is located.

(4) A veterinarian practicing telemedicine shall do all of the following:

(a) Establish the veterinarian/client/patient relationship.

(b) Provide the client with a statement containing the veterinarian's identity, license number, and contact information and the contact information for at least one physical veterinary clinic in the vicinity of the pet's location and instructions for how to receive patient follow-up care or assistance if the veterinarian and client are unable to communicate because of a technological or equipment failure or if there is an adverse reaction to treatment. The veterinarian shall obtain from the client a signed and dated statement indicating the client has

received the required information.

(c) Employ sound, professional judgment to determine whether using veterinary telemedicine is an appropriate method for delivering medical advice or treatment to the patient and providing quality of care consistent with prevailing veterinary medical practice. The practice of veterinary telemedicine in compliance with this section is not a quality-of-care violation, and a veterinarian may not be disciplined solely for practicing veterinary telemedicine.

(5) A veterinarian practicing veterinary telemedicine may order, prescribe, or make available medicinal drugs or drugs as defined in chapter 465.

(6) A veterinarian practicing veterinary telemedicine may not order, prescribe, or make available controlled substances as defined in chapter 893 unless the veterinarian has performed an in-person physical examination of the patient or made medically appropriate and timely visits to the premises where the patient is kept.

(7) A veterinarian personally acquainted with the caring and keeping of an animal or group of animals on food-producing animal operations on land classified as agricultural pursuant to s. 193.461 who has recently seen the animal or group of animals or has made medically appropriate and timely visits to the premises where the animal or group of animals is kept may practice veterinary telemedicine for animals on such operations

in compliance with this section and applicable federal law.

Section 4. Paragraph (a) of subsection (5) of section 474.203, Florida Statutes, is amended to read:

474.203 Exemptions.—This chapter does not apply to:

(5)(a) Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title is transferred or employment provided for the purpose of circumventing this law. This exemption does not apply to any person licensed as a veterinarian in another state or foreign jurisdiction and practicing temporarily in this state. However, except as provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 5. Paragraph (y) of subsection (1) of section 474.214, Florida Statutes, is amended to read:

474.214 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(y) Using the privilege of ordering, prescribing, or making available medicinal drugs or drugs as defined in chapter 465, or controlled substances as defined in chapter 893, for use other than for the specific treatment of animal patients for which there is a documented veterinarian/client/patient relationship. ~~Pursuant thereto,~~ The veterinarian shall:

1. Have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and caring of the animal and has recently performed an examination of the patient either in person or by the use of veterinary telemedicine in compliance with s. 474.2021 ~~seen the animal~~ or has made medically appropriate and timely visits to the premises where the animal is kept.

2. Be available or provide for follow-up ~~followup~~ care and treatment in case of adverse reactions or failure of the regimen of therapy.

3. Maintain records which document patient visits, diagnosis, treatment, and other relevant information required under this chapter.

Section 6. Subsection (1) of section 474.2165, Florida Statutes, is amended to read:

474.2165 Ownership and control of veterinary medical patient records; report or copies of records to be furnished.—

(1) As used in this section, the term "records owner" means any veterinarian who generates a medical record after making an ~~a physical~~ examination of a patient, either in person or by the use of veterinary telemedicine in compliance with s. 474.2021, or administering treatment or dispensing legend drugs to~~,~~ any patient; any veterinarian to whom records are transferred by a previous records owner; or any veterinarian's employer, provided the employment contract or agreement between the employer and the veterinarian designates the employer as the records owner.

Section 7. Subsections (1) and (3) of section 828.30, Florida Statutes, are amended to read:

828.30 Rabies vaccination of dogs, cats, and ferrets.—

(1)(a) All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian or, in the case of impounded animals, a person authorized under paragraph (b) against rabies with a vaccine ~~that is~~ licensed by the United States Department of Agriculture for use in those species.

(b) An employee, an agent, or a contractor of a county or municipal animal control authority acting under the indirect supervision of a veterinarian may vaccinate impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. The supervising veterinarian assumes responsibility for any person vaccinating animals at the veterinarian's direction or under his or her supervision. As

used in this paragraph, the term "indirect supervision" means that the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.

(c) The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies may ~~shall~~ not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

(3) Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. Each animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government which ~~that~~ contains all the information required by the NASPHV Rabies Vaccination Certificate. The veterinarian who administers the rabies vaccination, or who supervises the administration of the rabies vaccination as provided in paragraph (1)(b), ~~vaccine~~ to an animal as authorized ~~required~~ under this section may affix his or her signature stamp in lieu of an actual signature.

Section 8. This act shall take effect July 1, 2023.

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

HB 1307

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1307 Department of Agriculture and Consumer Services
SPONSOR(S): McClure
TIED BILLS: **IDEN./SIM. BILLS:** SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) Criminal Justice Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Division of Licensing (DOL) within the Department of Agriculture and Consumer Services (DACS) administers Florida's concealed weapon licensing program and oversees Florida's private investigative, private security, and recovery services industries. The Division of Consumer Services (DCS) within DACS regulates various businesses, such as charitable organizations and telemarketers, and protects consumers and businesses from unfair and unsafe business practices across a wide range of industries, including gasoline, liquefied petroleum (LP) gas, and weighing and measuring devices.

The bill streamlines licensure requirements and reduces fees related to the private investigative, private security, and recovery services industries; relaxes certain registration fee requirements for charitable organizations; revises services that certain LP gas licensees are authorized to conduct; and provides criminal penalties for retail fuel theft violations. In part, the bill:

- Allows former military firearms instructors to use their experience in the military as a firearm training requirement when applying for a Class "K" Firearms Instructor License.
- Allows Class "K" Firearms Instructor teaching experience to replace the license renewal training.
- Allows DACS to waive the annual firearms training for Class "G" Statewide Firearm Licensees who provide proof of annual training under the federal Law Enforcement Officers' Safety Act.
- Gives DACS more flexibility when charging late fees for renewal applications.
- Allows DACS to publish the private investigative, private security, and recovery industry newsletters and pamphlets online.
- Authorizes electronic verification, instead of verification under oath, for certain recovery agent and security guard applications for licensure.
- Relaxes annual registration fees for charitable organizations that are not in higher revenue categories.
- Expands the types of services that licensed Category I LP Gas Dealers and Category V LP Gas Dealers may provide to include the "design" of LP gas equipment.
- Creates provisions that address retail fuel theft and tampering with gas pumps, including, prohibitions, seizure and forfeiture requirements, criminal penalties, and exemptions for persons lawfully engaged in such activities.

The bill may have an insignificant fiscal impact on state government from reduced expenditures and potential increases in revenues. The bill is not expected to have a fiscal impact on local governments.

The effective date of the bill is July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Division of Licensing

The Division of Licensing (DOL) within the Department of Agriculture and Consumer Services (DACS) administers Florida's concealed weapon licensing program[1] and oversees Florida's private investigative, private security, and recovery services industries.[2] The DOL's regulatory oversight of those services includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.[3]

Private Investigative and Security Services

Currently, the DOL offers 22 different types of private investigative, private security, and recovery services licenses and four different types of concealed weapon or firearm licenses. As of February 28, 2023, the DOL had issued a total of 169,758 private investigative, private security, and recovery services licenses and 2,459,530 concealed weapon permits, to qualified applicants. The following chart provides a breakdown of the total number of each license type.[4]

License Type	License Title	Total
C	Private Investigators	7,240
CC	Private Investigator Interns	1,496
A	Private Investigative Agencies	2,721
AA	Private Investigative Agency Branch Offices	22
MA	Private Investigative Agency Managers	86
M	Private Investigative/Security Agency Managers	475
D	Security Officers	144,151
B	Security Agencies	2,064
BB	Security Agency Branch Offices	184
MB	Security Managers	1,551
AB	Security Agency/Private Investigative Agency Branch Offices	19
DS	Security Officer Schools	427
DI	Security Officer Instructors	1,874
G	Statewide Firearm Licenses	27,363
K	Firearms Instructors	676
E	Recovery Agents	786
EE	Recovery Agent Interns	327
R	Recovery Agencies	296
RR	Recovery Agency Branch Offices	31
MR	Recovery Agency Managers	3
RS	Recovery Agent Schools	6
RI	Recovery Agent Instructors	8
Subtotal of Private Investigative, Private Security, and Recovery Services Licenses		**191,806**

[1] S. 790.06, F.S.
[2] Ch. 493, F.S.
[3] Office of Program Policy Analysis and Government Accountability, Government Program Summaries, *Department of Agriculture and Consumer Services Licensing*, https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4101 (last visited Mar. 16, 2023).
[4] The Florida Department of Agriculture and Consumer Services, *Division of Licensing Statistical Reports*, https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports (last visited Mar. 16, 2023).

W	Concealed Weapon or Firearm	2,645,444
WJ	Concealed Weapon or Firearm/Circuit and County Judges	827
WR	Concealed Weapon or Firearm/Retired Law Enforcement and Correctional Officers	13,680
WS	Concealed Weapon or Firearm/Consular Security Official	10
Subtotal of Concealed Weapon Licenses		**2,659,961**
Total Number of Licenses		**2,851,767**

Class "G" Statewide Firearm License

A Class "G" Statewide Firearm License is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class "G" Statewide Firearm License is available only to individuals who currently hold one of the following licenses:[5]

- Private investigator (Class "C");
- Private investigator intern (Class "CC");
- Security officer (Class "D");
- Private investigative or security agency manager (Class "M");
- Private investigative agency manager (Class "MA"); or
- Security agency manager (Class "MB").

Class "G" Statewide Firearm License Application and Training Requirements

An initial applicant for a Class "G" Statewide Firearm License must complete firearm training, which must include at least 28 hours of range and classroom training either by in-person instruction, or via live instruction through a secure website, with no more than eight hours consisting of in-person range training, which must include safe handling and storage of firearms. The training must be administered and taught by a Class "K" Firearms Instructor Licensee who verifies the identity and attendance of the applicant.[6]

The Class "G" Statewide Firearm License applicant must submit a training certificate to DACS upon completion of the training. Additionally, the Class "K" Firearms Instructor Licensee who provides the training must submit results directly to the DOL and provide a copy of the training results to the trainee.[7] An applicant who was discharged within the last 12 months from service as a military officer, and has completed specific military courses is deemed to have completed a substantially similar training, and is exempt from the 28 hours of range and classroom training required for an initial Class "G" Statewide Firearm License.[8]

The "Class G" Statewide Firearm License must be renewed every two years.[9] Class "G" Statewide Firearm Licensees must annually complete four hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.[10] DACS is authorized to waive the firearms training requirement if:[11]

- Proof is provided showing the applicant is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous two years of the licensure period;

[5] S. 493.6115(2), F.S.
[6] S. 493.6105(5), F.S. *See also* R. 5N-1.132(1)(a), F.A.C.
[7] *Id*.
[8] R. 5N-1.119, F.A.C.
[9] S. 493.6113(1), F.S.
[10] S. 493.6113(3)(b), F.S.
[11] *Id*.

- The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous two years of the licensure period; or
- The applicant submits one of the valid firearm certificates required for a Class "K" Firearms Instructor initial license and provides proof of having completed requalification training during the previous two years of the licensure period.

Class "K" Firearms Instructor License Application and Training Requirements

Class "K" Firearms Instructor Licensees provide classroom or range instruction to applicants for a Class "G" Statewide Firearm License.[12] Applicants for an initial Class "K" Firearms Instructor License must submit one of the following certificates to demonstrate continued firearms qualifications:[13]

- The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certificate.
- A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than three years before the submission of the application.
- A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than three years before the submission of the application.

The initial applicant must also pay the fee and pass an examination administered by DACS.[14]

Class "K" Firearms Instructor Licensees must renew their license every three years[15] and submit one of the firearms qualification certificates, required for initial licensure, as proof that he or she remains certified to provide firearms instruction.[16] A Class "K" Firearms Instructor Licensee who fails to file a renewal application on or before its expiration must renew the license by fulling all renewal application requirements and pay a late fee equal to the amount of the Class "K" Firearms Instructor fee.[17]

License Renewal Late Fee

Failure of a private investigative, private security, and recovery services licensee to renew a license on or before its expiration requires the licensee to:

- Renew his or her license by fulfilling the applicable renewal requirements; and
- Pay a late fee equal to the amount of the license fee.[18]

Recovery Agent and Security Officer School or Training Facility

Any school, training facility, or instructor who offers training for Class "E" Recovery Agents, Class "EE" Recovery Agent Interns, or Class "D" Security Officers, must file an application containing certain information with DACS along with an application fee of up to $60. The application must be signed and verified by the applicant "under oath" as provided in s. 92.525, F.S., which authorizes documents to be verified in the following three ways:

- Under oath or affirmation taken or administered before a judge, clerks or deputy clerk of court, or any notary public;
- Under oath or affirmation taken or administered by law enforcement officer, correctional officer, or traffic officer under electronic means or in the physical presence of the affiant; or
- By signing a written declaration.[19]

[12] Ss. 493.6101(14) and 493.6115(7), F.S.
[13] S. 493.6105(6)(a), F.S.
[14] S. 493.6105(6)(b), F.S.
[15] S. 493.6113(1), F.S.
[16] S. 493.6113(3)(d), F.S.
[17] S. 493.6113(4), F.S.
[18] S. 493.6113(4), F.S.
[19] S. 493.6304(2) and 493.6406(2), F.S.

However, since the law specifies that applications must be verified "under oath," the law does not allow for electronic verification of applications.

Publication to the Industry

DACS is authorized to periodically publish newsletters and pamphlets advising private investigative, private security, and recovery services licensees of certain information that is of interest to the industry as well as the legal authority, rights, and obligations for various classes of licensure. The newsletter also contains administrative complaints against licensed or unlicensed persons or agencies. The newsletter must be published between two to four times annually, while the pamphlet must be updated every two years as necessary.[20]

Division of Consumer Services

The Division of Consumer Services (DCS) within DACS is the state's clearinghouse for consumer complaints, information and protection. The DCS regulates various businesses, such as charitable organizations and telemarketers. In addition, the DCS protects consumers and businesses from unfair and unsafe business practices across a wide range of industries, including antifreeze, brake fluid, gasoline, liquefied petroleum (LP) gas, pesticides, water vending machines, and weighing and measuring devices.[21]

Charitable Organization Fees

Organizations that intent to solicit donations in Florida are required to register with DACS pursuant to the Solicitation of Contributions Act (Act).[22] The Act contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors. Every charitable organization, sponsor,[23] or parent organization[24] must pay a single registration fee as follows:[25]

- Ten dollars if the contributions:
  - Received for the last fiscal year were less than $5,000; or
  - Actually raised or received from the public during the immediately preceding fiscal year are no more than $25,000 and the fundraising activities are carried on by certain entities who are not compensated.
- Seventy-five dollars if the contributions received for the last fiscal year were $5,000 or more, but less than $100,000.
- One hundred twenty-five dollars if the contributions received for the last fiscal year were $100,000 or more but less than $200,000.
- Two hundred dollars if the contributions received for the last fiscal year were $200,000 or more but less than $500,000.
- Three hundred dollars if the contributions received for the last fiscal year were $500,000 or more but less than $1 million.
- Three hundred fifty dollars if the contributions received for the last fiscal year were $1 million or more but less than $10 million.
- Four hundred dollars if the contributions received for the last fiscal year were $10 million or more.

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[20] S. 493.6123(1), F.S.

[21] Department of Agriculture and Consumer Services, http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services (last visited Mar. 16, 2023).

[22] *See* ch. 496, F.S.

[23] S. 496.404(25), F.S., defines a "sponsor" as a group or person who holds herself or himself out to be soliciting contributions by the use of a name that implies the group or person is in any way affiliated with r organized for the benefit of emergency service employees or law enforcement officers and the group or person is not a charitable organization.

[24] S. 496.404(18), F.S. defines a "parent organization" as part of a charitable organization or sponsor that coordinates, supervises, or exercises control over policy, fundraising, and expenditures or assists or advises one or more of the organization's chapters, branches, or affiliates in Florida.

[25] S. 496.405(4)(a), F.S.

Certain persons and organizations are exempt from the registration fee requirements including a charitable organization that has less than $25,000 in total revenue so long as they did not employ professional solicitors or have paid employees.[26]

Liquefied Petroleum Gas

The Bureau of Compliance within the DCS is responsible for regulating the LP gas industry, including licensing, inspection, training, and examination requirements.[27] These responsibilities ensure that those persons engaged in LP gas-related business activities in this state are trained and that compliance with acceptable safety codes and standards is achieved statewide.[28]

LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same:

- Propane;
- Propylene;
- Butanes (normal butane or isobutane); and
- Butylenes.[29]

Current law provides licensing requirements for businesses that engage in certain LP gas-related activities, including sales, installations, service and repair work, manufacture of equipment, and other miscellaneous activities. DACS is required to license applicants that it determines to be competent, qualified, and trustworthy. Violations for willfully operating without a license are a third degree felony.[30]

The license categories and associated fees are as follows:[31]

License Category	Annual License Fee
Category I LP Gas Dealer	$400
Category II LP Gas Dispenser	$400
Category III LP Gas Cylinder Exchange Unit Operator	$65
Category IV Dealer in Appliances and Equipment	$65
Category V LP Gas Installer	$200
Category VI Miscellaneous Operator	$200

Licensees may renew their license annually, biennially, or triennially, and must meet the same requirements and conditions, including fee amounts, for each licensed year. An expired license will become inoperative, and the fee for restoration of an expired license is equal to the original license fee and must be paid before the licensee is allowed to resume operations.[32]

DACS is responsible for enforcing reasonable standards of competency, including, but not limited to, the training, licensure, testing, and qualifying of persons participating in the LP gas industry.[33] DACS is also authorized to adopt rules that are:[34]

- In the interest of public health, safety, and welfare and to promote the safe handling of LP gas, equipment, and systems; and

[26] S. 496.406(1)(d), F.S.
[27] *See* ch. 527, F.S.
[28] Department of Agriculture and Consumer Services, *LP Gas Training*, https://www.fdacs.gov/Business-Services/LP-Gas-Inspection/LP-Gas-Training (last visited Mar. 16, 2023).
[29] S. 527.01(1), F.S.
[30] S. 527.02, F.S.
[31] *Id*.
[32] S. 527.03, F.S.
[33] S. 527.055(1)(b), F.S.
[34] S. 527.06

- Reasonably necessary to assure the competence of persons to safely engage in the business of LP gas.

According to the DACs website, training is required for all employees of an LP gas-related business, and refresher training must be conducted at three-year intervals.[35] In addition, any person applying for a license to engage in Category I LP Gas Dealer, Category II LP Gas Dispenser, or Category V LP Gas Installer activities must prove competency by passing a written examination administered by DACS or its agent.[36]

DACS is required to promulgate and enforce rules setting forth minimum general standards covering the "design, construction, location, installation, and operation" of LP gas equipment.[37] Currently, the definitions for Category I LP Gas Dealers, and Category V LP Gas Installers, do not include the term "design" in the description of services listed that such LP gas licensees are authorized to perform.[38] According to DACS, the national industry standards of the National Fire Protection Association for the storage and handling of LP gases as published in NFPA 58, Liquefied Petroleum Gas Code, 2020 Edition, which is adopted by rule, "contemplates that liquefied petroleum professionals can design such systems within their expertise."[39]

Gasoline and Oil Inspections

Current law governing gasoline and oil inspections in the state makes DACS responsible for monitoring the accuracy of Florida's gas pumps, scales, price scanners, and other commercial weighing and measuring devices to promote a fair and equitable marketplace and protect consumers. This includes the inspection of retail gas stations to ensure that fuel dispensers are working safely and properly.[40]

As part of these responsibilities, DACS is required to inspect all gas pumps used in selling or distributing petroleum fuel at wholesale and retail, and affix a sticker to each gas pump signifying that the device has been inspected and the owner is responsible for its proper use and maintenance.[41]

A gas pump found to be operating outside the tolerances defined by DACS must be deemed inaccurate and DACS is required to either:[42]

- Give the owner or manager reasonable time to repair the measuring device; or
- Condemn or prohibit the further use of the measuring device by using an appropriate security seal.

It is unlawful to operate a gas pump that has been condemned or prohibited from further use without the written consent of DACS. It is also unlawful to break, cut, or remove any seal applied by DACS to a gas pump or container. The seal may be broken by a DACS registered meter mechanic to repair or adjust a gas pump. However, after repairs and adjustments are complete, the adjusting mechanism must immediately be resealed by the mechanic who must immediately notify DACS of this action.[43]

All persons and service agencies that repair or install gas pumps are required to register with DACS and report to DACS when installing a gas pump.

Gas Pump Security Measures

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[35] Department of Agriculture and Consumer Services, *LP Gas Training*, https://www.fdacs.gov/Business-Services/LP-Gas-Inspection/LP-Gas-Training (last visited Mar. 16, 2023).
[36] S. 527.0201(1), F.S.
[37] S. 527.06(2), F.S.
[38] S. 527.01(6) and (10), F.S.
[39] Florida Department of Agriculture and Consumer Services, Agency Analysis of 2023 Senate Bill 1150, p. 2 (Mar. 8, 2023).
[40] Department of Agriculture and Consumer Services, *Weights and Measures*, https://www.fdacs.gov/Business-Services/Weights-and-Measures (last visited Mar. 11, 2021).
[41] S. 527.07(1), F.S.
[42] S. 527.07(4), F.S.
[43] S. 527.07(7), F.S.

Gas pump owners and operators are required to have a security measuring device affixed or installed on the gas pump to restrict the unauthorized access of customer payment card information.[44] The security measure must include one or more of the following:

- Pressure-sensitive security tape over the panel opening that leads to the scanning device to restrict the unauthorized opening of the panel.
- A device or system that will render the gas pump or scanning device in the gas pump inoperable if there is an unauthorized opening of the panel.
- A device or system that encrypts the customer payment card information.
- A physical locking mechanism that requires an access key unique to each station to restrict the unauthorized access of customer payment card information.
- An alarm to alert the owner or operator if there is an unauthorized opening of the panel.
- A daily inspection of each gas pump using an anti-skimmer application that detects wireless-based skimmers.
- A device or system that permits customers to use a contactless payment method.
- Another security measure approved by DACS.

Effective January 1, 2022, gas pump owners and operators must have at least two of the security measures affixed or installed on the gas pump. A gas pump without a security measure or with an illegal skimming or filtering device or an altered or damaged security measure, upon discovery by DACS, is prohibited from further use until the security measure is installed, replaced, or repaired. DACS is authorized to take gas pumps that do not have the two security measures out of service until compliance is restored, and may seize without warrant any skimming device for use as evidence.[45]

The regulation of gas pumps is preempted to the state.[46]

Retail Theft

The chapter of Florida law governing theft, robbery, and related crimes,[47] defines "theft" as knowingly obtaining, using, or attempting to obtain or use another's property, with the intent to permanently or temporarily:

- Deprive the person of the property, or
- Appropriate the property to an unauthorized use.[48]

The penalties for theft depend on several factors, such as the amount stolen, the type of property or services stolen, and the circumstances involved. Violations for theft offenses are characterized as "grand theft" and "petit theft."

The lowest level theft offense is petit theft of the second degree, which includes theft of property valued at less than $100. Petit theft of the second degree is a second degree misdemeanor,[49] punishable by a term of up to 60 days imprisonment and a $500 fine.[50]

The most serious level theft offense is grand theft of the first degree, which can include theft of property valued at $100,000 or more, cargo valued at more than $50,000 which has entered interstate or intrastate commerce, any grand theft in which the offender uses a getaway car, and any grand theft that causes more than $1,000 worth of property damage. Grand theft of the first degree is a first degree felony,[51] punishable by a term of imprisonment of not more than 30 years and a fine up to $10,000.[52]

[44] S. 527.07(10), F.S.
[45] *Id*.
[46] *Id*.
[47] *See* ch. 812, F.S.
[48] S. 812.014(1), F.S.
[49] S. 812.014(3)(a), F.S.
[50] Ss. 775.082, and 775.083, F.S.
[51] S. 812.014(2)(d) and (e), F.S.
[52] Ss. 775.082, and 775.083, F.S.

"Retail theft" is defined as "the taking possession of or carrying away of merchandise,[53] property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant[54] of possession, use, benefit, or full retail value."[55]

It is a third degree felony[56] to commit retail theft, if the property stolen is valued at $750 or more, and the person individually or in concert with one or more other persons, commits retail theft in certain situations.[57] A third degree felony is punishable by not more than five years in prison and a maximum fine of $5,000.[58]

Seized or Forfeited Property

The Florida Contraband Forfeiture Act (FCFA)[59] provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of the law.[60] Contraband and other property may be seized when utilized during a violation of, or for the purpose of violating, the act. Property constituting a "contraband article" includes, but is not limited to the following items:[61]

- Motor fuel upon which the motor fuel tax has not been paid as required by law;
- Vehicles of any kind which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony; and
- Personal property including equipment, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony.

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the FCFA, or in, upon, or by means of which any violation of the FCFA has taken or is taking place, may be seized and forfeited.[62]

Retail Fuel Theft (Pulsar Manipulation Devices)

According to reports, recently, fuel thieves have been caught using homemade devices to steal fuel from retail gas pumps. Gas pumps are currently outfitted with a device called a pulsar that counts the gallons being pumped. Criminals will break into the gas pump, install a device to manipulate or reengineer the current pulsar, and allow fuel to flow with out counting the gallons. This allows criminals to pump fuel without being charged.[63]

In Hillsborough County, $60,000 worth of gasoline was stolen from two different gas stations by individuals using the pulsar manipulation devices.[64] In Lakeland, two individuals were caught while filling up a large gas tank in the back of a pickup truck after accessing the inside of the fuel pump.[65]

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[53] "Merchandise" means "any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant." Section 812.015(1)(a), F.S.
[54] "Merchant" means "an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise." Section 812.015(1)(b), F.S.
[55] S. 812.015(1)(d), F.S.
[56] A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[57] S. 812.015(8), F.S.,
[58] Ss. 775.082 and 775.083, F.S.
[59] *See* ss. 932.701-932.7062, F.S.
[60] S. 932.701(1), F.S.
[61] S. 932.701(2)(a)4, 5, and 7, F.S.,
[62] S. 932.703(1)(a), F.S.
[63] MCS Petroleum, *Dispenser Security*, https://mcspetroleum.com/security/ (last visited Mar. 16, 2023).
[64] Matthew Impelli, *Fuel Thieves Used 'Homemade Device' to Steal $60,000 in Gas, Police Say,* Newsweek, April 4, 2022, https://www.newsweek.com/fuel-thieves-used-homemade-device-steal-60000-gas-police-say-1694856 (last visited Mar. 16, 2023).
[65] Catherine Hawley, *Florida men accused of tampering with gas pumps, stealing fuel in Bay area*, Fox 13 News, March 17, 2022, https://www.fox13news.com/news/florida-men-accused-of-tampering-with-gas-pumps-stealing-fuel-in-bay-area (last visited Mar.16, 2023).

The use of these devices is not just an issue in Florida. It is happening in other states as well. The Arizona Senate is considering a bill that would make the possession of a "pulsar manipulation device" a class 3 felony.[66] The bill defines the term pulsar manipulation device as "a mechanical or electronic device that can manipulate the dispenser meter of a fuel pump."[67]

According to DACS:[68]

- Possession of such devices is legal in Florida.
- Law enforcement agencies throughout Florida continue to report pulsar compromises at gas stations.
- Law enforcement currently relies on a statute to prosecute fuel theft crimes that does not address fuel pulsars.[69]

Effect of Proposed Changes

The bill streamlines licensure requirements and reduces fees related to the private investigative, private security, and recovery services industries, including Class "G" Statewide Firearm Licenses and Class "K" Firearms Instructors, reduces registration fees for certain charitable organizations, clarifies the services that LP gas licensees are authorized to conduct, and provides criminal penalties for retail fuel theft violations.

The bill authorizes former military firearms instructors to use their experience in the military as a training requirement when applying for a Class "K" Firearms Instructor License. Specifically, the bill allows applicants for a Class "K" Firearms Instructor License to submit a valid DD Form 214 issued by the U.S. Department of Defense not more than three years before the submission of the applicant's Class "K" application, indicating that the applicant has been honorably discharged and served no less than three years in the military as a firearms instructor.

The bill authorizes DACS to waive the four-hour annual firearms training requirement for a Class "G" Statewide Firearms License renewal if the applicant provides proof that he or she has completed annual firearms training in accordance with the requirements of the federal Law Enforcement Officers Safety Act.[70]

The bill authorizes a Class "K" Firearms Instructor Licensee who is renewing their license to provide proof of having taught at least six 28-hour firearms instruction courses to Class "G" applicants during the previous 3-year license period in lieu of having to obtain proof of one of other Florida, NRA, or federal firearms training qualifications.

The bill makes the automatic late fee for late filed private investigative, security, or recovery services license renewal applications discretionary instead of mandatory.

The bill authorizes DACS to publish all information related to the private investigative, security, or recovery services industry newsletter and pamphlet online in lieu of paper format.

The bill removes the requirement for a Class "E" Recovery Agents, Class "EE" Recovery Agent Interns, or Class "D" Security Officers to sign and verify their training application under oath, thereby allowing such applications to be signed and verified electronically.

The bill increases the contribution thresholds that are used to determine the assessment and exemption of registration fees for charitable organizations, sponsors, or parent organizations, which will

[66] Morgan Loew, *Arizona Senate committee votes to outlaw fuel theft devices*, 3TV/CBS 5, Feb. 3, 2023, https://www.azfamily.com/2023/02/03/arizona-senate-committee-votes-outlaw-fuel-theft-devices/ (last visited Mar. 16, 2023).
[67] AZ SB1177 (2023).
[68] Florida Department of Agriculture and Consumer Services, Agency Analysis of 2023 Senate Bill 1150, p. 2 (Mar. 8, 2023).
[69] S. 316.80, F.S.,
[70] *See* 18 U.S.C., ss. 926B-926C.

have the effect of lowering fees and registration requirements for such organizations that are not in the higher income categories. Specifically, the bill:

- Raises the $25,000 maximum contribution threshold to $50,000 for organizations that are required to pay a $10 registration fee. Currently, organizations with maximum contributions between $25,000 and $100,000 are required to pay a $75 registration fee.
- Raises the $25,000 total revenue threshold to $50,000 for charitable organizations and sponsors that are exempt from registration requirements.

The bill revises the definition of a Category I LP Gas Dealer to include any person who "designs" the apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas.

The bill revises the definition of a Category V LP Gas Installer to include a person whose services include the "design" of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or natural gas.

The bill creates provisions that address retail fuel theft, including, prohibitions, seizure and forfeiture requirements, criminal penalties, and exemptions for persons lawfully engaged in such activities.

The bill makes the following activities a third degree felony:[71]

- Intentionally breaching, causing to be breached, or gaining access without authorization to any internal portion of a retail fuel dispenser.
- Using any form of electronic communication from a device such as a wireless remote, computer, or other device which alters, tricks, or manipulates a retail fuel dispenser.
- Obtaining fuel as a result of a violation of any of these provisions.
- Aiding, abetting or assisting in a violation of any of these provisions.
- Possession of any item used to hold fuel which was not fitted to a vehicle or conveyance at the time of manufacture with the intent to use such item, or allow such item to be used, in a violation of these provisions.
- Modifying a vehicle's factory installed fuel tank for the purpose of committing, attempting to commit, or aiding, abetting, or assisting someone in a violation of these provisions.

The bill makes the following activities a second degree felony:[72]

- Possess, use, or install any device constructed for the purpose of fraudulently altering, manipulating, or interrupting a retail fuel dispenser from standard operation or impeding the retail fuel dispenser's functionality while using a form of electronic communication to trick a retail fuel dispenser.
- Tamper with, manipulate, remove, replace, or interrupt any mechanical or electronic component located within a retail fuel dispenser for the purpose of devising or executing any scheme or artifice to defraud or obtain property.

The bill provides that any conveyances, vehicles, fuel tanks, and other equipment used or intended to be used in a violation of this section, and any fuel acquired in a violation of this section, is subject to seizure and forfeiture as provided by the Florida Contraband Forfeiture Act. Law enforcement agencies that seize fuel must remove and reclaim, recycle, or dispose of all the fuel as soon as practicable in a safe and proper manner. Upon conviction of a person arrested for a violation of retail fuel theft, the judge must issue an order adjudging and declaring that all conveyances, vehicles, fuel tanks, and other equipment that was used or intended to be used are forfeited and directing their destruction, with the exception of the conveyance or vehicle.

The bill provides that any person convicted of a violation of retail fuel theft is responsible for the following:

- All reasonable costs incurred by the investigating law enforcement agency, including, but not limited to:
    - Costs for the towing and storage of the conveyance or vehicle;

[71] Ss. 775.082, 775.083, and 775.084, F.S.
[72] *Id.*

    - Removal and disposal of the fuel; and
    - Storage and destruction of all fuel tanks and other equipment described and used or intended to be used in the violation.
- Payment, to the party from whom it was fraudulently obtained, for the retail value of any associated fuel at the time of the underlying act.

The bill exempts the following persons who are lawfully engaged in an activity that would otherwise be a violation of the retail theft provisions:

- Inspectors and investigators of DACS;
- Persons registered with DACS under chapter 525, F.S.(all persons and service agencies that repair or install petroleum fuel measuring devices must register with DACS);
- Employees or owners of fuel stations;
- Law enforcement officers; and
- Firefighters or other necessary public safety personnel.

The bill defines the term "fuel" to include any of the following:

- Alternative fuel as defined in s. 525.01, F.S.
- Aviation fuel as defined in s. 206.9815, F.S.
- Diesel fuel as defined in s. 206.86, F.S.
- Gas as defined in s. 206.9925, F.S.
- Motor fuel as defined in s. 206.01, F.S.
- Natural gas fuel as defined in s. 206.9951, F.S.
- Oil as defined in s. 206.9925, F.S.
- Petroleum fuel as defined in s. 525.01, F.S.
- Petroleum product as defined in s. 206.9925, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 493.6105, F.S.; making a technical change; revising requirements for applicants for a Class "K" license.

Section 2: Amends s. 493.6113, F.S.; revising the circumstances under which DACS may waive firearms training requirements; revising requirements for applicants for a Class "K" license; requiring the Division of Licensing to establish a specified late fee by rule.

Section 3: Amends s. 493.6123, F.S.; authorizing DACS to publish certain information online in lieu of using a paper format.

Section 4: Amends ss. 493.6304, F.S.; relating to security officer school or training facilities.

Section 5: Amends s. 493.6406, F.S.; relating to recovery agent school or training facilities.

Section 6: Amends s. 496.405, F.S.; revising requirements relating to registration fees for certain charitable organizations, sponsors, and parent organizations.

Section 7: Amends s. 496.406, F.S.; relating to exemption from registration for charitable organizations and sponsors.

Section 8: Amends S. 527.01, F.S.; revising the definitions of the terms "Category I liquefied petroleum gas dealer" and "Category V LP gas installer."

Section 9: Creates s. 812.0151, F.S.; relating to retail fuel theft.

Section 10: Reenacts s. 366.032(1)(e) and 489.105(3)(m), F.S., relating to preemption over utility service restrictions, to incorporate the amendments made by this act to s. 527.01, F.S.

Section 11: Reenacts s. 489.105(3)(m), F.S., relating to definitions, respectively, to incorporate the amendments made by this act to s. 527.01, F.S.

Section 12: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

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 on the private sector. The bill streamlines professional licensure requirements, allows for reduced late fees for license renewals, reduces registration fee requirements for charitable organizations, expands services that certain LP gas licensees may conduct, and provides fuel theft protections for gas station owners and operators.

Class "K" Firearms Instructors may experience an indeterminate reduction in demand for their services to the extent they will not be used due to the waiver of their annual firearms training for Class "G" Statewide Firearms License renewals.

D. FISCAL COMMENTS:

The fiscal impact to the state is indeterminate. According to DACS, "the majority of the provisions of the bill pose a negligible fiscal impact to the department based on the waiver and exemption of fees proposed."[73]

The creation of additional felony violations associated with retail fuel theft may cause an increase in prison beds for the Department of Corrections. However, there are existing felony violations that are currently being utilized where the new fuel theft offenses will be utilized. It is unknown how many new violations will occur.

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or

[73] Florida Department of Agriculture and Consumer Services, Agency Analysis of 2023 Senate Bill 1150, p. 2 (Mar. 8, 2023).

municipalities.

2. Other:

Article VII, Section 19 of the Florida Constitution requires a supermajority vote to impose or raise a tax or fee. Under this provision, "Raise" means:

a. "To increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
b. To increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
c. To decrease or eliminate a state tax or fee exemption or credit."

The bill allows DACS to provide reduced late fees for certain license renewals. The bill also increases the contribution thresholds that are used to determine the assessment and exemption of registration fees for charitable organizations, which will have the effect of lowering fees for such organizations. It is unclear as to whether this would constitute the "raising" of a fee as defined in Art. VII s. 19.

B. RULE-MAKING AUTHORITY:

According to DACS, the DOL will need to create reasonable late fee requirements by administrative rule. Current law provides sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Department of Agriculture and Consumer Services; amending s. 493.6105, F.S.; making a technical change; revising requirements for applicants for a Class "K" license; amending s. 493.6113, F.S.; revising the circumstances under which the Department of Agriculture and Consumer Services may waive firearms training requirements; revising requirements for applicants for a Class "K" license; requiring the Division of Licensing of the department to establish a specified late fee by rule; amending s. 493.6123, F.S.; authorizing the department to publish certain information online in lieu of using a paper format; amending ss. 493.6304 and 493.6406, F.S.; making technical changes; amending s. 496.405, F.S.; revising requirements relating to registration fees for certain charitable organizations, sponsors, and parent organizations; amending s. 496.406, F.S.; conforming provisions to changes made by the act; amending s. 527.01, F.S.; revising the definitions of the terms "Category I liquefied petroleum gas dealer" and "Category V LP gas installer"; creating s. 812.0151, F.S.; defining the term "fuel"; providing criminal penalties for certain actions relating to retail fuel theft; requiring law enforcement agencies

to remove and reclaim, recycle, or dispose of fuel in a specified manner; requiring judges to enter a specified order for persons convicted of violating specified provisions; specifying that convicted persons are responsible for certain costs and payments; providing applicability; reenacting ss. 366.032(1)(e) and 489.105(3)(m), F.S., relating to preemption over utility service restrictions and definitions, respectively, to incorporate the amendments made by this act to s. 527.01, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (2) and paragraph (a) of subsection (6) of section 493.6105, Florida Statutes, are amended to read:

493.6105 Initial application for license.—

(2) Each application must be signed and verified by the applicant ~~individual under oath~~ as provided in s. 92.525.

(6) In addition to the requirements under subsection (3), an applicant for a Class "K" license must:

(a) Submit one of the following:

1. The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms

certification.

2. A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than 3 years before the submission of the applicant's Class "K" application.

3. A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than 3 years before the submission of the applicant's Class "K" application.

4. A valid DD Form 214 issued not more than 3 years before the submission of the applicant's Class "K" application, indicating that the applicant has been honorably discharged and served no less than 3 years in the military as a firearms instructor.

Section 2. Paragraphs (b) and (d) of subsection (3) and subsection (4) of section 493.6113, Florida Statutes, are amended to read:

493.6113 Renewal application for licensure.—

(3) Each licensee is responsible for renewing his or her license on or before its expiration by filing with the department an application for renewal accompanied by payment of the renewal fee and the fingerprint retention fee to cover the cost of ongoing retention in the statewide automated biometric identification system established in s. 943.05(2)(b). Upon the first renewal of a license issued under this chapter before January 1, 2017, the licensee shall submit a full set of fingerprints and fingerprint processing fees to cover the cost

of entering the fingerprints into the statewide automated biometric identification system pursuant to s. 493.6108(4)(a) and the cost of enrollment in the Federal Bureau of Investigation's national retained print arrest notification program. Subsequent renewals may be completed without submission of a new set of fingerprints.

(b) Each Class "G" licensee shall additionally submit proof that he or she has received during each year of the license period a minimum of 4 hours of firearms requalification training taught by a Class "K" licensee and has complied with such other health and training requirements that the department shall adopt by rule. Proof of completion of firearms requalification training shall be submitted to the department upon completion of the training. A Class "G" licensee must successfully complete this requalification training for each type and caliber of firearm carried in the course of performing his or her regulated duties. If the licensee fails to complete the required 4 hours of annual training during the first year of the 2-year term of the license, the license shall be automatically suspended. The licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be reinstated. If the licensee fails to complete the required 4 hours of annual training during the second year of the 2-year term of the

license, the licensee must complete the minimum number of hours of range and classroom training required at the time of initial licensure and submit proof of completion of such training to the department before the license may be renewed. The department may waive the firearms training requirement if:

1. The applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous 2 years of the licensure period;

2. The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous 2 years of the licensure period; ~~or~~

3. The applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a) and provides proof of having completed requalification training during the previous 2 years of the licensure period; or

4. The applicant provides proof that he or she has completed annual firearms training in accordance with the requirements of the federal Law Enforcement Officers Safety Act under 18 U.S.C. ss. 926B-926C.

(d) Each Class "K" licensee shall additionally submit:

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

1. One of the certificates specified under s. 493.6105(6) as proof that he or she remains certified to provide firearms instruction; or

2. Proof of having taught at least six 28-hour firearms instruction courses to Class "G" applicants during the previous 3-year license period.

(4) A licensee who fails to file a renewal application on or before its expiration must renew his or her license by fulfilling the applicable requirements of subsection (3) and may be required to pay ~~by paying~~ a late fee ~~equal to the amount of the license fee~~. The division shall establish the amount of the late fee authorized under this subsection by rule; however, such late fee may not exceed the amount of the license fee.

Section 3. Subsection (3) is added to section 493.6123, Florida Statutes, to read:

493.6123 Publication to industry.—

(3) The department may publish all information required by this section online in lieu of using a paper format.

Section 4. Subsection (2) of section 493.6304, Florida Statutes, is amended to read:

493.6304 Security officer school or training facility.—

(2) The application must ~~shall~~ be signed and verified by the applicant ~~under oath~~ as provided in s. 92.525 and must contain, at a minimum, the following information:

(a) The name and address of the school or training

facility and, if the applicant is an individual, her or his name, address, and social security or alien registration number.

(b) The street address of the place at which the training is to be conducted.

(c) A copy of the training curriculum and final examination to be administered.

Section 5. Subsection (2) of section 493.6406, Florida Statutes, is amended to read:

493.6406 Recovery agent school or training facility.—

(2) The application must be signed and verified by the applicant ~~under oath~~ as provided in s. 92.525 and must ~~shall~~ contain, at a minimum, the following information:

(a) The name and address of the school or training facility and, if the applicant is an individual, his or her name, address, and social security or alien registration number.

(b) The street address of the place at which the training is to be conducted or the street address of the Class "RS" school offering Internet-based or correspondence training.

(c) A copy of the training curriculum and final examination to be administered.

Section 6. Paragraph (a) of subsection (4) of section 496.405, Florida Statutes, is amended to read:

496.405 Registration statements by charitable organizations and sponsors.—

(4)(a) Every charitable organization, sponsor, or parent

organization filing on behalf of one or more chapters, branches, or affiliates that is required to register under this section must pay a single registration fee. A parent organization filing on behalf of one or more chapters, branches, or affiliates shall total all contributions received by the chapters, branches, or affiliates included in the registration statement to determine registration fees. Fees shall be assessed as follows:

1.a. Ten dollars, if the contributions received for the last fiscal or calendar year were less than $5,000; or

b. Ten dollars, if the contributions actually raised or received from the public during the immediately preceding fiscal year by such organization or sponsor are no more than $50,000 ~~$25,000~~ and the fundraising activities of such organization or sponsor are carried on by volunteers, members, officers, or permanent employees, who are not compensated, primarily to solicit such contributions, provided no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or commercial co-venturer;

2. Seventy-five dollars, if the contributions received for the last fiscal year were $5,000 or more, but less than $100,000;

3. One hundred twenty-five dollars, if the contributions received for the last fiscal year were $100,000 or more, but

less than $200,000;

4. Two hundred dollars, if the contributions received for the last fiscal year were $200,000 or more, but less than $500,000;

5. Three hundred dollars, if the contributions received for the last fiscal year were $500,000 or more, but less than $1 million;

6. Three hundred fifty dollars, if the contributions received for the last fiscal year were $1 million or more, but less than $10 million;

7. Four hundred dollars, if the contributions received for the last fiscal year were $10 million or more.

Section 7. Paragraph (d) of subsection (1) of section 496.406, Florida Statutes, is amended to read:

496.406 Exemption from registration.—

(1) The following charitable organizations and sponsors are exempt from the requirements of s. 496.405:

(d) A charitable organization or sponsor that has less than $50,000 ~~$25,000~~ in total revenue during a fiscal year if the fundraising activities of such organization or sponsor are carried on by volunteers, members, or officers who are not compensated and no part of the assets or income of such organization or sponsor inures to the benefit of or is paid to any officer or member of such organization or sponsor or to any professional fundraising consultant, professional solicitor, or

commercial co-venturer. If a charitable organization or sponsor that has less than $50,000 ~~$25,000~~ in total revenue during a fiscal year actually acquires total revenue equal to or in excess of $50,000 ~~$25,000~~, the charitable organization or sponsor must register with the department as required by s. 496.405 within 30 days after the date the revenue reaches $50,000 ~~$25,000~~.

Section 8. Subsections (6) and (10) of section 527.01, Florida Statutes, are amended to read:

527.01 Definitions.—As used in this chapter:

(6) "Category I liquefied petroleum gas dealer" means any person selling or offering to sell by delivery or at a stationary location any liquefied petroleum gas to the consumer for industrial, commercial, or domestic use; any person leasing or offering to lease, or exchanging or offering to exchange, any apparatus, appliances, and equipment for the use of liquefied petroleum gas; any person designing, installing, servicing, altering, or modifying apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; any person installing carburetion equipment; or any person requalifying cylinders.

(10) "Category V LP gas installer" means any person who is engaged in the liquefied petroleum gas business and whose services include the design, installation, servicing, altering, or modifying of apparatus, piping, tubing, tanks, and equipment

for the use of liquefied petroleum or natural gas and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum or natural gas.

Section 9. Section 812.0151, Florida Statutes, is created to read:

812.0151 Retail fuel theft.—

(1) As used in this section, the term "fuel" has the same meaning as in s. 163.3206(2).

(2) Any person who:

(a) Intentionally breaches, causes to be breached, or gains access without authorization to any internal portion of a retail fuel dispenser commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Tampers with, manipulates, removes, replaces, or interrupts any mechanical or electronic component located within a retail fuel dispenser for the purpose of devising or executing any scheme or artifice to defraud or obtain property commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Uses any form of electronic communication from a device such as a wireless remote, computer, or other device which alters, tricks, or manipulates a retail fuel dispenser commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Possesses, uses, or installs any device constructed for the purpose of fraudulently altering, manipulating, or interrupting a retail fuel dispenser from standard operation or impeding the retail fuel dispenser's functionality while violating paragraph (c) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Obtains fuel as a result of a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f) Aids, abets, or assists in a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g) Has in his or her possession any item used to hold fuel which was not fitted to a vehicle or conveyance at the time of manufacture with the intent to use such item, or allow such item to be used, in a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(h) Any person who modifies a vehicle's factory installed fuel tank for the purpose of committing, attempting to commit, or aiding, abetting, or assisting someone in a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any conveyances, vehicles, fuel tanks, and other equipment used or intended to be used in a violation of this

section, and any fuel acquired in a violation of this section, is subject to seizure and forfeiture as provided by the Florida Contraband Forfeiture Act.

(4) A law enforcement agency that seizes fuel under this section must remove and reclaim, recycle, or dispose of all the fuel as soon as practicable in a safe and proper manner.

(5) Upon conviction of a person arrested for a violation of this section, the judge must issue an order adjudging and declaring that all conveyances, vehicles, fuel tanks, and other equipment used or intended to be used in a violation of this section are forfeited and directing their destruction, with the exception of the conveyance or vehicle.

(6) Any person convicted of a violation of this section is responsible for both of the following:

(a) All reasonable costs incurred by the investigating law enforcement agency, including, but not limited to, the costs for the towing and storage of the conveyance or vehicle, the removal and disposal of the fuel, and the storage and destruction of all fuel tanks and other equipment described and used or intended to be used in a violation of this section.

(b) Payment, to the party from whom it was fraudulently obtained, for the retail value of any associated fuel at the time of the underlying act.

(7) This section does not apply to the following persons who are lawfully engaged in an activity that would otherwise be

a violation of this section:

(a) Inspectors and investigators of the Department of Agriculture and Consumer Services;

(b) Persons registered with the Department of Agriculture and Consumer Services under chapter 525;

(c) Employees or owners of fuel stations;

(d) Law enforcement officers; and

(e) Firefighters or other necessary public safety personnel.

Section 10. For the purpose of incorporating the amendments made by this act to section 527.01, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section 366.032, Florida Statutes, is reenacted to read:

366.032 Preemption over utility service restrictions.—

(1) A municipality, county, special district, or other political subdivision of the state may not enact or enforce a resolution, ordinance, rule, code, or policy or take any action that restricts or prohibits or has the effect of restricting or prohibiting the types or fuel sources of energy production which may be used, delivered, converted, or supplied by the following entities to serve customers that such entities are authorized to serve:

(e) A Category I liquefied petroleum gas dealer or Category II liquefied petroleum gas dispenser or Category III liquefied petroleum gas cylinder exchange operator as defined in

s. 527.01.

Section 11. For the purpose of incorporating the amendments made by this act to section 527.01, Florida Statutes, in a reference thereto, paragraph (m) of subsection (3) of section 489.105, Florida Statutes, is reenacted to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the paragraphs of this subsection. For the purposes of regulation under this part, the term "demolish" applies only to demolition of steel tanks more than 50 feet in height; towers more than 50 feet in height; other structures more than 50 feet in height; and all buildings or residences. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(m) "Plumbing contractor" means a contractor whose services are unlimited in the plumbing trade and includes

contracting business consisting of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, if not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, if not prohibited by law, design the following without obtaining an additional local regulatory license, certificate, or registration: sanitary drainage or storm drainage facilities, water and sewer plants and substations, venting systems, public or private water supply systems, septic tanks, drainage and supply wells, swimming pool piping, irrigation systems, and solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas, liquefied petroleum gas and related venting, and storm and sanitary sewer lines. The scope of work of the plumbing contractor also includes the design, if not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems; fire line standpipes and fire sprinklers if authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in a manner that complies with all plans, specifications, codes, laws, and regulations applicable. The

scope of work of the plumbing contractor applies to private property and public property, including any excavation work incidental thereto, and includes the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified as being the work of a trade other than that of a plumbing contractor. This definition does not limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6) and does not require certification or registration under this part as a category I liquefied petroleum gas dealer, or category V LP gas installer, as defined in s. 527.01, who is licensed under chapter 527 or an authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater. A plumbing contractor may perform drain cleaning and clearing and install or repair rainwater catchment systems; however, a mandatory licensing requirement is not established for the performance of these specific services.

Section 12. This act shall take effect July 1, 2023.

HB 1333

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1333 Interstate-Mobility and Universal-Recognition Occupational Licensing Act
SPONSOR(S): Koster
TIED BILLS: **IDEN./SIM. BILLS:** SB 1364

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

An occupational or professional license is a form of government regulation that requires individuals to obtain authorization in order to perform certain types of work, such as nurses, contractors, and cosmetologists. Florida's Sunrise Act prohibits state regulation of occupations and professions that unnecessarily restrict entry into the profession or occupation and the Act requires that any regulation only be adopted if it is necessary to protect the health, safety, and welfare of the public.

The bill requires Florida licensing boards that issue occupational licenses or government certifications to individuals under ch. 455, F.S., relating to the regulations of professions by the Department of Business and Professional Regulation (DBPR), or ch. 456, F.S., relating to the regulation of professions by the Department of Health (DOH), to issue an occupational license or government certification (universal license) to eligible applicants, under certain circumstances (universal licensing requirement).

Applicants may seek a universal license through one of three pathways described in the bill. An applicant from another state is automatically approved under the universal licensing scheme if:

- The applicant is licensed by another licensing entity or state;
- The applicant has certain work experience in another state or in the military; or
- The applicant has a private certification with work experience in a non-licensing state or the military.

The bill provides that an applicant with a valid occupational license or certification in good standing, or who otherwise meets the requirements for an occupational license for a lawful occupation, is presumed to be qualified for the license and must be issued an occupational license or government certification by the appropriate Florida licensing board.

The bill provides that during a declared state of emergency, the Governor may order the recognition of occupational licenses from outside Florida or from a foreign country as if the licenses were issued in Florida, may expand any occupation license scope of practice, and authorize licensees to provide services in Florida in person, telephonically, or by other means for the duration of the emergency.

The bill will have an indeterminate fiscal impact on state and local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Occupational Licensing

An occupational or professional license is a form of government regulation that requires individuals who want to perform certain types of work, such as nurses, contractors, and cosmetologists, to obtain governmental authorization to work in a specific field.[1]

An estimated 23.5 percent of the civilian labor force nationwide has an occupational license.[2] Various governmental entities and agencies in Florida license and regulate such individuals practicing in a wide range of professions, including:[3]

- Department of Business and Professional Regulation (DBPR),
- Department of Health (DOH),
- Department of Financial Services (DFS),
- Department of Agriculture and Consumer Services (DACS),
- Florida Supreme Court (FSC),
- Department of Environmental Protection (DEP),
- Agency for Healthcare Administration (AHCA),
- Department of Children and Families (DCF),
- Department of Elder Affairs (DEA),
- Department of Highway Safety and Motor Vehicles (DHSMV), and
- Office of Financial Regulation (OFR).

In the 1950s, less than five percent of U.S. workers were required to have a license to do their jobs. Since then the number of workers required to have a license has risen five-fold to more than one-quarter of U.S. workers with most of these workers being licensed by the states. Almost two-thirds of this change stems from an increase in the number of professions that require a license. The number of licensed workers is even higher in Florida, with an estimated 28.7 percent of the workforce being licensed by the state.[4]

In 2015, the White House published a report on the current state of occupational licensing in the nation. The report found that when designed and implemented carefully, requiring occupational licenses offers important health and safety protections to consumers as well as benefits to workers. However, the report also found that too often licensing requirements are inconsistent, inefficient, arbitrary, and there is evidence that the current license regime in the U.S. raises the price of goods and services, restricts employment opportunities, and makes it more difficult for workers to take their skills across state lines.[5]

The report stated that because occupations are diverse in their tasks, designing and implementing successful occupational license regulations often requires a tailored approach. However, there are a number of common factors that policymakers should consider when contemplating enacting, revising, or repealing an occupational regulation. Policymakers should:[6]

- Ensure that restrictions are closely targeted to protecting public health and safety, and are not overly burdensome;

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[1] The White House, *Occupational Licensing: A Framework for Policymakers*, 6 (July 2015) https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf (last visited on Mar 20, 2023).
[2] Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey, 2021*, Certification and licensing status of the civilian noninstitutional population 16 years and over by employment status (bls.gov), (last visited on Mar. 20, 2023).
[3] Chs. 20, 25, F.S.
[4] White House *supra* note 1 at 3 & 24.
[5] *Id*.
[6] *Id*. at 41-43

- Facilitate a careful consideration of licensure's costs and benefits; and
- Work to reduce licensing's barriers to mobility.

Policymakers can facilitate a careful consideration of licensure costs and benefits through both sunrise and sunset reviews. However, evidence suggests that sunrise reviews are more successful at limiting the growth of licensing since removing a license is much more difficult than enacting one. Additionally, state regulators suggested that sunrise reviews may be more effective than sunset reviews.[7]

Sunrise Review

Generally, a sunrise review is a formal process where a legislature scrutinizes legislation proposing to regulate an unregulated profession or occupation by requiring a cost-benefit analysis before the legislation is enacted. Most sunrise reviews require the proponents of the regulation to outline the potential impacts, costs, and benefits of the proposed regulation. Some states require the proponents of the regulation to provide certain information to a legislative committee or a state agency for analysis and evaluation, which is then provided to the legislature. Policymakers can review the information provided before moving forward with the legislation.[8]

Currently 14 states, including Florida, have sunrise reviews.[9] However, states vary widely in how independently and thoroughly they administer sunrise reviews. Colorado requires proponents of regulation to submit the proposed regulation along with the potential impacts, costs, and benefits to the Colorado Department of Regulatory Agencies for analysis and evaluation.[10] Minnesota requires proponents of regulation to file a report outlining the regulation's potential impacts, costs, and benefits with the legislature within 15 days of the bill being introduced.[11] Maine requires sunrise reviews for legislation regulating an unregulated profession or occupation and legislation that substantially expands regulation of an already regulated profession or occupation.[12] Florida currently requires proponents of regulation to file information about the regulation's potential impacts, costs, and benefits upon request.[13]

Florida's Sunrise Act

Section 11.62, F.S., is Florida's sunrise review, which is called the Sunrise Act. The Sunrise Act states that regulation should not be adopted unless it is:

- Necessary to protect the public health, safety, or welfare from significant and discernible harm or damage;
- Exercised only to the extent necessary to prevent the harm; and
- Limited so as not to unnecessarily restrict entry into the practice of the profession or adversely affect public access to the professional services.

In determining whether to regulate a profession or occupation, the Sunrise Act requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;

[7] *Id.* at 42, 48-49.
[8] *Id.* at 48; Iris Hentze, *Improving Occupational Licensing with Sunrise and Sunset Reviews*, National Conference of State Legislatures, (July 2018), https://www.ncsl.org/labor-and-employment/sunset-and-sunrise (last visited Mar. 20, 2023); Council on Licensure & Regulation, *Sunrise, Sunset and State Agency Audits*, https://clear.wildapricot.org/page-486181 (last visited Mar. 20, 2023).
[9] Council on Licensure & Regulation *supra* note 5.
[10] Colo. Rev. Stat. § 24-34-104.1.
[11] Minn. Stat. § 214.002.
[12] ME. Rev. Stat. Ann. Tit. 32-1A, § 60-J.
[13] S. 11.62(4), F.S.

- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

The Sunrise Act requires proponents of legislation that propose new regulation on professions or occupations to provide the following information, **upon request,** by the agency proposed to have jurisdiction or the legislative committee to which the legislation is referred, to document the need for regulation:

- The number of individuals or businesses that would be subject to the regulation;
- The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;
- Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding three years;
- A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;
- A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;
- A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;
- A copy of any federal legislation mandating regulation;
- An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;
- The cost, availability, and appropriateness of training and examination requirements;
- The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;
- The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation;
- The details of any previous efforts in this state to implement regulation of the profession or occupation; and
- Any other information the agency or the committee considers relevant to the analysis of the proposed legislation.

The Sunrise Act requires the agency proposed to have jurisdiction over the regulation to provide the Legislature with the following information:

- The resources required to implement and enforce the regulation;
- The technical sufficiency of the proposal, including its consistency with the regulation of other professions; and
- Any alternatives that may result in less restrictive or more cost-effective regulation.

In determining whether to recommend regulation, the legislative committee reviewing the proposal must assess whether the proposed regulation is:

- Justified based on the statutory criteria and the information provided by both the proponents of regulation and the agency responsible for its implementation;
- The least restrictive and most cost-effective regulatory scheme necessary to protect the public; and
- Technically sufficient and consistent with the regulation of other professions under existing law.

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR), through 11 divisions, regulates and licenses businesses and professionals in Florida. The divisions established under DBPR include:

- The Division of Administration;
- The Division of Alcoholic Beverages and Tobacco;
- The Division of Certified Public Accounting;
- The Division of Drugs, Devices, and Cosmetics;
- The Division of Florida Condominiums, Timeshares, and Mobile Homes;
- The Division of Hotels and Restaurants;
- The Division of Professions;
- The Division of Real Estate;
- The Division of Regulation;
- The Division of Technology; and
- The Division of Service Operations.[14]

The Division of Professions (Professions) licenses and regulates more than 434,000 professionals through the following professional boards and programs:

- Board of Architecture and Interior Design,
- Asbestos Licensing Unit,
- Athlete Agents,
- Board of Auctioneers,
- Barbers' Board,
- Building Code Administrators and Inspectors Board,
- Regulatory Council of Community Association Managers,
- Construction Industry Licensing Board,
- Board of Cosmetology,
- Electrical Contractors' Licensing Board,
- Board of Employee Leasing Companies,
- Home Inspectors,
- Board of Landscape Architecture,
- Mold-Related Services,
- Board of Pilot Commissioners,
- Board of Professional Geologists.
- Talent Agencies,
- Board of Veterinary Medicine, and
- Florida Board of Professional Engineers.[15]

The Division of Regulation is the enforcement authority for the Florida Athletic Commission, Farm Labor Program, Child Labor Program, and any professional boards and programs housed within Professions.[16] To ensure compliance with applicable laws and rules by those professions and related businesses, Regulations investigates complaints, utilizes compliance mechanisms, and performs inspections.[17]

The Division of Certified Public Accounting is responsible for the regulation of certified public accountants and accounting firms in the state.[18]

The Division of Real Estate is responsible for the regulation of real estate sales associates, brokers, and appraisers, in conjunction with the Florida Real Estate Commission and the Florida Real Estate Appraisal Board.[19]

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[14] s. 20.165, F.S.

[15] Florida Department of Business and Professional Regulation, *Division of Professions*, http://www.myfloridalicense.com/dbpr/pro/index.html (last visited Feb. 20, 2017).

[16] Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers.

[17] Florida Department of Business and Professional Regulation, *Division of Regulation*, http://www.myfloridalicense.com/DBPR/division-of-regulation/ (last visited Mar. 12, 2023).

[18] S. 473.3035, F.S.; Florida Department of Business and Professional Regulation, *Certified Public Accounting*, Certified Public Accounting – MyFloridaLicense.com (last visited Mar. 12, 2023).

Each profession is governed by an individual practice act and by ch. 455, F.S., which provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under DBPR.[20] Chapter 455, F.S., applies to the regulation of professions constituting "any activity, occupation, profession, or vocation regulated by the DBPR in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation."[21]

In Fiscal Year 2021-2022, the DBPR's Division of Professions, had 937,960 active licensees (of which 38,541 were licensed accountants; 66,936 were licensed engineers, and 345,026 were real estate-related licensees).[22] Such licenses have statutory procedures in places to allow out-of-state licensees to obtain a Florida license.

In 2020, HB 1193,[23] an omnibus license deregulation bill, was enacted, which instituted greater license portability measures for the following DBPR licenses:

- Veterinarians,
- Construction contractors,
- Electrical contractors,
- Landscape architects,
- Geologists,
- Professional engineers,
- Certified public accountants,
- Home inspectors,
- Building code professionals,
- Cosmetologists, and
- Barbers.

Locally Licensed Contractors

Chapter 489, F.S., relates to "contracting," with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting. DBPR, through the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board and under the Division of Professions, provide statewide licenses for various construction and electrical contractors. Chapter 489, F.S., also allows local jurisdictions across the state to locally license registered contractors to practice in their jurisdiction.[24]

Department of Health

The Department of Health (DOH) is created under the authority of s. 20.43, F.S., which outlines the composition of the agency structure to include the Division of Medical Quality Assurance (MQA). MQA is statutorily responsible for the following boards and professions established within the division:

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;

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[19] S. 475.021, F.S.
[20] S. 455.203, F.S.
[21] S. 455.01(6), F.S.
[22] *See* Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2021-2022*, at 10, at http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf (last visited Mar. 20, 2023).
[23] Ch. 2020-125, L.O.F.
[24] Ss. 489.117 and 489.131, F.S.

- Nursing assistants, as provided under part II of ch. 464, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part III of ch. 483, F.S.;
- Medical physicists, as provided under part IV of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.;

The DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives.[25] The DOH receives and investigates complaints about practitioners and prosecutes cases for disciplinary action against practitioners.

The DOH, on behalf of the professional boards, investigates complaints against practitioners.[26] Once an investigation is complete, the DOH presents the investigatory findings to the boards. The DOH recommends a course of action to the appropriate board's probable cause panel which may include:[27]

Issuing an emergency order;
Having the file reviewed by an expert;
Issuing a closing order; or
Filing an administrative complaint.

The boards determine the course of action and any disciplinary action to take against a practitioner under the respective practice act.[28] For professions for which there is no board, the DOH determines the action and discipline to take against a practitioner and issues the final orders.[29] The DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.[30] If a case is appealed, DOH attorneys defend the final actions of the boards before the appropriate appellate court.[31]

[25] The DOH also establishes these for some professions. Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, genetic counselors, and school psychologists.
[26] Department of Health, *Investigative Services,* http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html (last visited Mar. 20, 2023).
[27] Department of Health, *Prosecution Services,* http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html (last visited Mar. 20, 2023).
[28] S. 456.072(2), F.S.
[29] *Supra* note 25.
[30] *Supra* note 27.
[31] *Id.*

The DOH and board rules apply to all statutory grounds for discipline against a practitioner. Under current law, the DOH has disciplinary authority for violations of a practice act only for practitioners that are not regulated by a board. The DOH does not have final disciplinary authority over practitioners for which there is a board.

Florida Health Care Licensure

The DOH does not license health care practitioners by specialty or subspecialty. A health care practitioner's specialty area of practice is acquired through the practitioner acquiring additional education, training, or experience in a particular area of health care practice. Practitioners who have acquired additional education, training, or experience in a particular area may also elect to become board-certified in that specialty by private, national specialty boards, such as the American Board of Medical Specialties (ABMS), the Accreditation Board for Specialty Nursing Certification, and the American Board of Dental Specialties.[32] Board certification is not required to practice a medical or osteopathic specialty.

Health Care Practitioner Licensure – Federal Government and Military

The federal government does not license health care practitioners, nor does it regulate practitioner behavior in terms of scope of practice, standards of practice, or practitioner discipline. Instead, the federal government relies on state governments to fulfill those functions.

In addition to state licensure requirements, Medicare, Medicaid, and other government reimbursement programs[33] rely on the power of the purse to manage practitioners and facilities providing health care services to persons enrolled in such programs. These programs impose "conditions of participation" and "conditions of payment," which essentially mandate compliance with specified standards. Certification under a federal health care program is an authorization to participate in government payment systems; it is distinct from state licensure or accreditation by a nationally-recognized board.[34]

For example, under federal labor law, the definition of "health care provider" includes, in part, a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices, and others capable of providing health care services, including podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, and physician assistants who are authorized to practice in the state and performing within the scope of their practice as defined under state law.[35]

Federal laws do not license or regulate such practitioners in the manner state regulatory laws and practice acts do, and do not define practitioner credentials or scopes of practice outside the applicable state law.

United States Armed Forces Career Fields

The U.S. Armed Forces consists of six military branches: Air Force, Army, Coast Guard, Marine Corps, Navy, and Space Force. The secretary of the U.S. Department of Defense controls each branch, except the Coast Guard, which is under the Department of Homeland Security (DHS). With more than two million civilian and military employees, the U.S. Department of Defense is the world's largest employer.[36]

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[32] Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry.

[33] Programs such as the federal workers' compensation program for longshoremen and harbor workers found under 20 CFR Subchapter A, available at: https://www.law.cornell.edu/cfr/text/20/chapter-VI/subchapter-A (last visited Mar. 17, 2023).

[34] The Healthcare Law Review: USA, *Spotlight: The Regulation of Healthcare Providers and Professionals in the USA*, Sept. 7, 2020, available at: https://www.lexology.com/library/detail.aspx?g=c3c193d0-753e-4244-914a-fd943e70ec8e (last visited Mar. 17, 2023).

[35] *See* 29 CFR s. 825.125, defining the term "health care provider" in the context of the Family and Medical Leave Act of 1993, as amended.

[36] Military.com, *What Are the Branches of the US Military?* at https://www.military.com/join-armed-forces/us-military-branches-overview.html (last visited Mar. 20, 2023).

Joining the U.S. Armed Forces as an enlisted member or an officer has a significant impact on the type of experience and training a new recruit receives. All jobs for enlisted members require a high school diploma, although, with certain exceptions, a passing General Education Development (GED) test score is acceptable. While jobs for enlisted members include infantry roles, most jobs involve hands-on training for mechanical, transportation, human service, or office fields that transfer to the civilian world.

Almost all officer positions require a four-year college degree or equivalent. Officers are the managers of the military, acting in leadership roles that require planning, directing operations, and making critical decisions. Officer positions also include careers that require advanced degrees, such as law and medicine.[37]

The careers available to members of the U.S. Armed Forces are extensive, and depending on the service branch, have been referred to as career management fields (CMF), occupational management fields (OMF), and military occupational specialties (MOS).[38]

Servicemember Professional License Portability

The federal Veterans Auto and Education Improvement Act of 2022,[39] (the federal portability act) which became law on January 5, 2023, addresses the portability of professional licenses held by members of the U.S. Armed Forces (service members) and their spouses, when they move outside the jurisdiction that issued the license due to military orders for military service, under specified circumstances.

Portability is available only for a professional license or certificate in good standing with the issuing licensing authority which has been actively used by the servicemember or spouse during the two years immediately preceding the relocation (covered licenses), and licenses to practice law are expressly not covered.

Under the act, a covered license must be considered valid at a similar scope of practice and in the discipline applied for in the jurisdiction of such new residency for the duration of such military orders if such servicemember or spouse:

- Provides a copy of military orders to the licensing authority in the new jurisdiction;
- Remains in good standing with:
  - The licensing authority that issued the covered license; and
  - Every other licensing authority that has issued to the servicemember or spouse a license with a similar scope of practice and in the discipline applied in the new jurisdiction; and
- Submits to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

If the license of a servicemember or spouse is covered by an interstate licensure compact, use of the license is governed by the interstate compact or applicable state law, and the above portability provisions do not apply.

Occupational Licensing Trends

According to the National Conference of State Legislatures (NCSL), "occupational licensing remains a growing area of interest for states, stemming largely from tight labor markets and the race to recruit workers for the large number of job openings nationwide. In 2022, the focus has largely been on

[37] Today's Military, *Enlisted and Officer Paths*, at https://www.todaysmilitary.com/ways-to-serve/enlisted-officer-paths (last visited Mar. 20, 2023).
[38] *See e.g.*, listed careers for the Air Force, Army, Marines, and Navy, respectively, at https://www.airforce.com/careers; https://en.wikipedia.org/wiki/List_of_United_States_Army_careers; https://www.marines.com/about-the-marine-corps/roles/military-occupational-specialty.html; and https://www.navy.com/node/3512 (all last visited Mar. 20, 2023).
[39] *See* s. 19, Pub. Law No. 117-333, H.R. 7939, 117th Cong. (Jan. 5, 2023) at https://www.congress.gov/bill/117th-congress/house-bill/7939/text (last visited Mar. 17, 2023), which amended the Servicemembers Civil Relief Act (SCRA), 42 U.S.C. 4021 *et seq.* by adding Section 705A. The amendment also expands the right to terminate certain types of service contracts and clarifies options for tax residence for a servicemember and his or her spouse.

improving the accessibility of licensing in order to bolster the workforce and integrate new employees."[40] The NCSL identified four trends: worker mobility; universal licensure recognition; reducing barriers for veterans and military spouses; and simplifying or eliminating licensing.[41]

Emergency Powers

During a declared state of emergency, in addition to any other powers conferred upon the Governor by law, the Governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of any state agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency.[42]

Effect of Bill

The bill, titled the Interstate-Mobility and Universal-Recognition Act, relates to licenses and certifications issued by DBPR and DOH. The bill requires DBPR and DOH to recognize other state licenses and certifications, certain work experience, and private certifications and work experience for certain individuals, under certain circumstances.

The bill requires Florida licensing boards that issue occupational licenses or government certifications to individuals under ch. 455, F.S., relating to the regulations of professions by the Department of Business and Professional Regulation (DBPR), or ch. 456, F.S., relating to the regulation of professions by the Department of Health (DOH), to issue an occupational license or government certification (universal license) to eligible applicants, under certain circumstances (universal licensing requirement).

Applicants may seek a universal license through one of three pathways described in the bill. An applicant from another state is automatically approved under the universal licensing scheme if:

- The applicant is licensed by another licensing entity or state;
- The applicant has certain work experience in another state or in the military; or
- The applicant has a private certification with work experience in a non-licensing state or the military.

The bill provides that an applicant with a valid occupational license or certification in good standing, or who otherwise meets the requirements for an occupational license for a lawful occupation, is presumed to be qualified for the license and must be issued an occupational license or government certification by the appropriate Florida licensing board.

The bill provides the following definitions:

- "Board" means an agency, board, department, or other governmental entity that regulates a lawful occupation under DBPR or DOH and issues an occupational license or government certification to an individual.
- "Government certification" means a voluntary, government-granted, and nontransferable recognition granted to an individual who meets personal qualifications related to a lawful occupation. The term includes a military certification for a lawful occupation. The term does not include credentials,[43] such as those used for medical board certification or held by a certified public accountant, that are prerequisites to working lawfully in an occupation.

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[40] *See NCSL 2022 Occupational Licensing Trends Summary*, https://www.ncsl.org/labor-and-employment/2022-occupational-licensing-trends (last visited Mar. 20, 2023).
[41] *Id*.
[42] S. 252.36(6), F.S.
[43] The term "credentials" is not defined in the bill, however, *see* the University of Florida Professional and Workforce Development Medical Credentialing Program information at https://pwd.aa.ufl.edu/medical-credentialing-program/ (last visited Mar. 20, 2023). The Florida Certification Board (FCB), a nonprofit organization, indicates it has, over the last 30 years, designed, developed and managed certification programs in Florida for over 30 health and human services professions. *See* https://flcertificationboard.org/credentials/ and https://flcertificationboard.org/about/ (last visited Mar. 20, 2023).

- "Lawful occupation" means a course of conduct, pursuit, or profession that includes lawful the sale of goods or services to sell regardless of whether the individual selling them is subject to an occupational license.
- "Military" means the Armed Forces of the United States, including the Air Force, Army, Coast Guard, Marine Corps, Navy, Space Force, National Guard, and all reserve components and auxiliaries. The term also includes the military reserves and militia of any United States territory or state.
- "Occupational license" means a nontransferable authorization in law for an individual to exclusively perform a lawful occupation based on meeting personal qualifications. The term includes a military occupational specialty.
- "Other licensing entity" or "another licensing entity" means any United States territory or state in the United States other than this state which issues occupational licenses or government certifications. The term includes the military.
- "Private certification" means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation, as determined by the private organization.
- "Scope of practice" means the procedures, actions, processes, and work that a person may perform under an occupational license or government certification issued in this state

The bill provides that notwithstanding any other law, a board must issue an occupational license or government certification to a person applying to a board for such license or certification if all of the following apply:

- The person holds a current and valid occupational license or government certification by another licensing entity in a lawful occupation with a similar scope of practice, as determined by a board in this state.
- The person has held the occupational license or government certification by another licensing entity for at least 1 year.
- A board for the other licensing entity required the person to pass an examination or meet education, training, or experience standards.
- A board for the other licensing entity holds the person in good standing.
- The person does not have a disqualifying criminal record as determined by a board in this state.
- A board for another licensing entity has not revoked the person's occupational license or government certification because of negligence or intentional misconduct related to the person's work in the occupation.
- The person did not surrender an occupational license or government certification, or have such license or certification revoked, because of negligence or intentional misconduct related to the person's work in the occupation in another state or in the military.
- The person does not have a complaint, allegation, or investigation pending before a board for another licensing entity which relates to unprofessional conduct or an alleged crime. If the person has a complaint, allegation, or investigation pending, a board may not issue or deny an occupational license or government certification to the person until the complaint, allegation, or investigation is resolved or the person otherwise meets the criteria for an occupational license or government certification in this state to the satisfaction of a board in this state.
- The person pays all applicable fees in this state.

If another licensing entity issued the person a government certification but this state requires an occupational license to work, a board must issue an occupational license to the person if the person otherwise satisfies all of the above qualifications.

Work Experience

In addition, the bill requires board under DBPR and DOH to issue an occupational license or government certification to a person applying to the board for such license or certification based on work experience in another state or the military if all of the following requirements are met:

- The person worked in a state that does not use an occupational license or government certification to regulate a lawful occupation or was a member of the military, but this state uses

an occupational license or government certification to regulate a lawful occupation with a similar scope of practice, as determined by the board.
- The person worked for at least 3 years in the lawful occupation.
- The person satisfies all of the above qualifications under occupational license or government certification.

Private Certification

Notwithstanding any other law, a board must issue an occupational license or government certification to a person applying for such license or certification based on the person holding a private certification and the person's work experience in another state or the military if all of the following apply:
- The person holds a private certification and worked in a state that does not use an occupational license or government certification to regulate a lawful occupation or was a member of the military, but this state uses an occupational license or government certification to regulate a lawful occupation with a similar scope of practice, as determined by the board.
- The person worked for at least 2 years in the lawful occupation.
- The person holds a current and valid private certification in the lawful occupation.
- The private certification organization holds the person in good standing.
- The person does not have a disqualifying criminal record as determined by a board in this state.
- A board for another licensing entity has not revoked the person's occupational license or government certification because of negligence or intentional misconduct related to the person's work in the occupation.
- The person did not surrender an occupational license or government certification, or have such license or certification revoked, because of negligence or intentional misconduct related to the person's work in the occupation in another state or in the military.
- The person does not have a complaint, allegation, or investigation pending before a board for another licensing entity which relates to unprofessional conduct or an alleged crime. If the person has a complaint, allegation, or investigation pending, a board may not issue or deny an occupational license or government certification to the person until the complaint, allegation, or investigation is resolved or the person otherwise meets the criteria for an occupational license or government certification in this state to the satisfaction of a board in this state.
- The person pays all applicable fees in this state.

Presumption of Approval

The bill provides that unless a board can demonstrate a substantial difference between licensure or certification requirements of another licensing entity and this state, there is a presumption that an applicant who holds a valid occupational license, government certification, or private certification, or otherwise meets the requirements to credentialed for a lawful occupation, and is in good standing in another state is qualified for an occupational license or government certification in this state and **must** be approved by the board.

A board shall provide an applicant with a written decision regarding the application within 90 days after receiving a complete application.

Appeal Process

The person may appeal the board's decision to the Division of Administrative Hearings, such as:
- The board's denial;
- Determination of the occupation;
- Determination of the similarity of the scope of practice of the occupational license or government certification issued; or
- Other applicable determinations.

Applicability

The bill provides that:

- Nothing in this bill shall prevent a person from obtaining an occupational license or government certification from another law or rule.
- An occupational license or government certification issued under this bill is valid only in this state unless otherwise provided by law.
- It does not prevent Florida from entering into a licensing compact or reciprocity agreement with another state, foreign province, foreign country, international organization, or other entity.
- May not be construed to prevent this state from recognizing occupational credentials issued by a private certification organization, foreign province, foreign country, international organization, or other entity.
- May not be construed to require a private organization to grant or deny private certification to any individual.

The bill provides that the Governor may order the recognition of occupational licenses from other licensing entities or from a foreign country as if the licenses were issued in this state under a state of emergency declared by the Governor.

The bill requires each board under DBPR and DOH to submit an annual report to the President of the Senate and the Speaker of the House of Representatives by December 31 of each year, detailing the number of licenses or certifications issued, the number of applications submitted which were denied, and the reason for each denial.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Creates s. 455.2135, F.S.; the "Interstate-Mobility and Universal Recognition Occupational Licensing Act."
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill may increase revenues from application fees at DBPR and DOH due to an increase in out-of-state license applicants.

2. Expenditures:

   DBPR and DOH may have a negative fiscal impact related to creating new licensing processes and forms.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill may increase revenues from application fees for local contracting licenses due to an increase in out-of-state license applicants.

2. Expenditures:

   The bill may cause an increase in local contractor licenses being issued, but local governments may charge fees to cover the cost of regulation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals in the state may make the decision to forgo education and testing requirements in Florida in favor of moving to another state that has an easier path to licensure, or move to a state that doesn't

have a licensing scheme to obtain a private certification, and later return to be licensed in the state through one of the bill's alternative pathways.

Out-of-state professionals seeking to work in the state may be eligible under the additional alternative pathways created by the bill to obtain a license to work in specified occupations and professions in Florida. Thus, the state may see an increase in the number of available professionals to hire.

D. FISCAL COMMENTS:

DBPR has provided the following response on the fiscal impact:[44]

The potential fiscal impact to DBPR is indeterminate at this time. Depending upon the number of individuals who take advantage of this new licensing method the DBPR would collect a corresponding amount of revenues from the licensees. Additionally, if enough new license applications are received there could be staffing needs in order to process any increased applications or complaints.

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article VII, s. 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. As such, Art, VII, s. 19 of the Florida Constitution may apply if the fee provisions in the bill are interpreted to be a new fee.

Mandating acceptance of unspecified private certifications and other state licenses may potentially implicate the "nondelegation doctrine." Article III, Section 1 of the Florida Constitution states that "[t]he legislative power of the state shall be vested in a legislature of the State of Florida." The Florida Supreme Court has held that this constitutional provision requires that "primary policy decisions must be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines…."[45]

The Legislature may constitutionally transfer subordinate functions to "permit administration of legislative policy by an agency with the expertise and flexibility to deal with complex and fluid conditions."[46] However, the Legislature "may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law."[47] Further, the nondelegation doctrine precludes the Legislature from delegating its powers "absent ascertainable minimal standards and guidelines."[48] When the Legislature delegates power to another body, it "must clearly announce adequate standards to guide in the execution of the powers delegated."[49]

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[44] Department of Business and Professional Regulation, Agency Analysis of 2023 Senate Bill 1364, p. 10 (Mar. 20, 2023).
[45] *Askew v. Cross Key Waterways,* 372 So.2d 913, 925 (Fla. 1978).
[46] *Microtel v. Fla. Pub. Serv. Comm'n,* 464 So.2d 1189, 1191 (Fla.1985) (citing *State, Dep't of Citrus v. Griffin,* 239 So.2d 577 (Fla.1970)).
[47] *Sims v. State,* 754 So.2d 657, 668 (Fla. 2000).
[48] *Dep't of Bus. Reg., Div. of Alcoholic Beverages and Tobacco v. Jones,* 474 So.2d 359, 361 (Fla. 1st DCA 1985).
[49] *Martin, 916 So.2d at 770.*

The bill allows people to obtain a license in this state that move here from another state more easily than Florida residents. There are constitutional provisions and analysis that may be implicated.[50]

B. RULE-MAKING AUTHORITY:

The bill requires boards at DBPR and DOH to create new licensing processes and forms. The bill does not provide rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear if the bill is intended to cover all licensed professions in the state or only those licensed professions covered in chs. 455 and 456, F.S., as it specifically excepts occupations regulated by the Florida Supreme Court, such professionals are not regulated by DBPR or DOH.

The sponsor has indicated that an amendment is planned to address concerns once the sponsor has heard from all interested parties and received input from DBPR and DOH. The planned amendment will also address technical drafting issues, make conforming changes, clarify definitions and other language for consistency, address profession and industry specific concerns by identifying more specifically those individuals who are not covered by the universal licensing requirements created by the bill, and will allow rulemaking by DBPR and DOH to implement the provisions in the bill.

The bill may also need clarification related to which fees an applicant must pay. DBPR and DOH have a specific fee structure authorized for each type of license and avenue for obtaining licensure, including a license by endorsement. The bill does not currently specify which fee or fees are applicable.

The bill may need clarification related to the requirements for a universal license based on work experience, which appear to be internally inconsistent. To qualify under this provision, the bill requires the applicant to have worked in another state that does not require a license for the occupation; however, to qualify under this provision, the bill also requires the applicant to meet the requirements s. 455.2135(3)(a), F.S., which requires the person to have been licensed by another licensing entity.

Some of the bill's provisions conflict with current law. For example: The bill creates s. 455.2135, F.S., to provide occupational license portability for professions or occupations regulated by the DBPR and DOH. However, ch. 455, F.S., relates to professions regulated by the DBPR. The sponsor may wish to include in an amendment additional provisions in ch. 456, F.S., noting the applicability of the act to professions regulated by the DOH, and providing notice to eligible individuals and the affected boards of the universal licensing requirements. A similar amendment may be needed to clarify conflicts between the bill's provisions related to the Emergency Powers of the Governor that conflict with current law.

DBPR has conveyed the following concerns:[51]

The bill states that a board may not issue or deny an occupational license or government certification to any person with a pending complaint, allegation, or investigation until such matter is resolved. This conflicts with s. 455.213(4), F.S., which authorizes denial of an initial license to any applicant who is under investigation or prosecution in any jurisdiction for an action that would constitute a violation of ch. 455, F.S., or the respective professional practice acts, until such time as the investigation is complete. It is unclear if the provisions of s. 120.60(1), F.S., that deem an application approved for failure to issue a decision within 90 days of a complete application would still apply when an agency is prohibited from denying or issuing a license while the applicant has pending complaints, allegations, or investigations.

The bill's effective date of July 1, 2023 will not allow sufficient time for rulemaking to implement the provisions of the bill, including developing new fees and applications.

[50] U.S. Const. art IV, § 2, cl. 1; U.S. Const. art I, § 8, cl. 3; U.S. Const. amend. XIV, §§ 1,2;
[51] *Id*. at 8-9.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Interstate-Mobility and Universal-Recognition Occupational Licensing Act; creating s. 455.2135, F.S.; providing a short title; defining terms; requiring certain agencies, boards, departments, and other governmental entities to issue an occupational license or government certification to persons under certain circumstances; authorizing such entities to require a person to pass a specified examination under certain circumstances; providing a presumption that the applications of certain individuals will be approved; requiring such entities to provide a written decision to an applicant within a specified timeframe; authorizing a person to appeal a decision made under the act; specifying that a person licensed or certified under the act is still subject to specified laws and entities; providing construction; authorizing the Governor to take certain actions relating to occupational licenses during declared states of emergency; requiring such entities to submit an annual report to the Legislature by a specified date; providing an effective date.

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

Section 1. Section 455.2135, Florida Statutes, is created to read:

455.2135 Interstate-Mobility and Universal-Recognition Occupational Licensing Act.—

(1) SHORT TITLE.—This section may be cited as the "Interstate-Mobility and Universal-Recognition Occupational Licensing Act."

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

(a) "Board" means an agency, board, department, or other governmental entity that regulates a lawful occupation under this chapter or chapter 456 and issues an occupational license or government certification to an individual.

(b) "Government certification" means a voluntary, government-granted, and nontransferable recognition granted to an individual who meets personal qualifications related to a lawful occupation. The term includes a military certification for a lawful occupation. The term does not include credentials, such as those used for medical board certification or held by a certified public accountant, that are prerequisites to working lawfully in an occupation.

(c) "Lawful occupation" means a course of conduct, pursuit, or profession that includes lawful the sale of goods or services to sell regardless of whether the individual selling them is subject to an occupational license.

(d) "Military" means the Armed Forces of the United

States, including the Air Force, Army, Coast Guard, Marine Corps, Navy, Space Force, National Guard, and all reserve components and auxiliaries. The term also includes the military reserves and militia of any United States territory or state.

(e) "Occupational license" means a nontransferable authorization in law for an individual to exclusively perform a lawful occupation based on meeting personal qualifications. The term includes a military occupational specialty.

(f) "Other licensing entity" or "another licensing entity" means any United States territory or state in the United States other than this state which issues occupational licenses or government certifications. The term includes the military.

(g) "Private certification" means a voluntary program in which a private organization grants nontransferable recognition to an individual who meets personal qualifications and standards relevant to performing the occupation, as determined by the private organization.

(h) "Scope of practice" means the procedures, actions, processes, and work that a person may perform under an occupational license or government certification issued in this state.

(3) OCCUPATIONAL LICENSE OR GOVERNMENT CERTIFICATION.—

(a) Notwithstanding any other law, a board must issue an occupational license or government certification to a person applying to a board for such license or certification if all of

the following apply:

1. The person holds a current and valid occupational license or government certification by another licensing entity in a lawful occupation with a similar scope of practice, as determined by a board in this state.

2. The person has held the occupational license or government certification by another licensing entity for at least 1 year.

3. A board for the other licensing entity required the person to pass an examination or meet education, training, or experience standards.

4. A board for the other licensing entity holds the person in good standing.

5. The person does not have a disqualifying criminal record as determined by a board in this state.

6. A board for another licensing entity has not revoked the person's occupational license or government certification because of negligence or intentional misconduct related to the person's work in the occupation.

7. The person did not surrender an occupational license or government certification, or have such license or certification revoked, because of negligence or intentional misconduct related to the person's work in the occupation in another state or in the military.

8. The person does not have a complaint, allegation, or

investigation pending before a board for another licensing entity which relates to unprofessional conduct or an alleged crime. If the person has a complaint, allegation, or investigation pending, a board may not issue or deny an occupational license or government certification to the person until the complaint, allegation, or investigation is resolved or the person otherwise meets the criteria for an occupational license or government certification in this state to the satisfaction of a board in this state.

9. The person pays all applicable fees in this state.

(b) If another licensing entity issued the person a government certification but this state requires an occupational license to work, a board must issue an occupational license to the person if the person otherwise satisfies paragraph (a).

(4) WORK EXPERIENCE.—Notwithstanding any other law, a board must issue an occupational license or government certification to a person applying to the board for such license or certification based on work experience in another state or the military if all of the following apply:

(a) The person worked in a state that does not use an occupational license or government certification to regulate a lawful occupation or was a member of the military, but this state uses an occupational license or government certification to regulate a lawful occupation with a similar scope of practice, as determined by the board.

(b) The person worked for at least 3 years in the lawful occupation.

(c) The person satisfies paragraph (3)(a).

(5) PRIVATE CERTIFICATION.—Notwithstanding any other law, a board must issue an occupational license or government certification to a person applying for such license or certification based on the person holding a private certification and the person's work experience in another state or the military if all of the following apply:

(a) The person holds a private certification and worked in a state that does not use an occupational license or government certification to regulate a lawful occupation or was a member of the military, but this state uses an occupational license or government certification to regulate a lawful occupation with a similar scope of practice, as determined by the board.

(b) The person worked for at least 2 years in the lawful occupation.

(c) The person holds a current and valid private certification in the lawful occupation.

(d) The private certification organization holds the person in good standing.

(e) The person satisfies subparagraphs (3)(a)5.-9.

(6) STATE EXAMINATION.—A board may require a person to pass a jurisprudential examination specific to relevant state laws that regulate the occupation if an occupational license or

government certification under this chapter or chapter 456 requires such examination.

(7) PRESUMPTION OF APPROVAL; DECISION.—Unless a board can demonstrate a substantial difference between licensure or certification requirements of another licensing entity and this state, there is a presumption that an applicant who holds a valid occupational license, government certification, or private certification, or otherwise meets the requirements to be credentialed for a lawful occupation, and is in good standing in another state is qualified for an occupational license or government certification in this state and must be approved by the board. A board shall provide an applicant with a written decision regarding his or her application within 90 days after receiving a complete application.

(8) APPEAL.—

(a) The person may appeal the board's decision to the Division of Administrative Hearings.

(b) The person may appeal the board's:

1. Denial of an occupational license or government certification;

2. Determination of the occupation;

3. Determination of the similarity of the scope of practice of the occupational license or government certification issued; or

4. Other determinations made under this section.

(9) STATE LAWS AND JURISDICTION.—A person who obtains an occupational license or a government certification pursuant to this section is subject to:

(a) The laws regulating the occupation in this state; and

(b) The jurisdiction of the board in this state.

(10) EXCEPTION.—This section does not apply to an occupation regulated by the Florida Supreme Court.

(11) CONSTRUCTION.—

(a) This section may not be construed to prohibit a person from applying for an occupational license or a government certification under another law or rule.

(b) An occupational license or a government certification issued pursuant to this section is valid only in this state. Such license or certification does not make the person eligible to work in another state under an interstate compact or a reciprocity agreement unless otherwise provided in law.

(c) This section may not be construed to prevent this state from entering into a licensing compact or reciprocity agreement with another state, foreign province, foreign country, international organization, or other entity.

(d) This section may not be construed to prevent this state from recognizing occupational credentials issued by a private certification organization, foreign province, foreign country, international organization, or other entity.

(e) This section may not be construed to require a private

certification organization to grant or deny private certification to any individual.

(12) EMERGENCY POWERS.—

(a) During a state of emergency declared by the Governor, the Governor may order the recognition of occupational licenses from other licensing entities or from a foreign country as if the licenses were issued in this state.

(b) The Governor may expand any occupational license's scope of practice and may authorize licensees to provide services in this state in person, telephonically, or by other means for the duration of the emergency.

(13) ANNUAL REPORT.—Each board shall submit an annual report to the President of the Senate and the Speaker of the House of Representatives by December 31 of each year, detailing the number of licenses or certifications issued pursuant to this section, the number of applications submitted pursuant to this section which were denied, and the reason for each denial.

Section 2. This act shall take effect July 1, 2023.

HB 1383

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1383 Specialty Contractors
SPONSOR(S): Trabulsy
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

In 2021, HB 735 was enacted, which expressly preempted occupational licensing to the state and provided that any local licensing of an occupation not specifically authorized by general law may not be enforced. This preemption supersedes any local government licensing requirement of occupations unless:

- The licensing of occupations by local governments is authorized by general law; or
- The local licensing scheme was imposed before July 1, 2021. However, any such local licensing scheme expires on July 1, 2023.

HB 735 specifically preempted local construction licensing that is **outside the scope** of state construction contractor licensing provisions regulated by the Construction Industry Licensing Board (CILB) under the Department of Business and Professional Regulation, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

The bill requires the CILB, by July 1, 2023, to, by rule, establish certified specialty contractor categories for voluntary licensure for all of the following:

- Structural aluminum or screen enclosures.
- Marine seawall work.
- Marine bulkhead work.
- Marine dock work.
- Marine pile driving.
- Structural masonry.
- Structural prestressed, precast concrete work.
- Rooftop solar heating installation.
- Structural steel.
- Window and door installation, including garage door installation and hurricane or windstorm protection.

The bill provides that a local government may not require a license issued by the local government or CILB to perform a job scope which does not substantially correspond to one of the state contractor or specialty contractor categories.

The bill prohibits local governments from requiring a license to obtain a permit for a job scope outside of the practice of contracting.

The bill provides that a local government may not require a license as a prerequisite to submit a bid for public work projects if the work to be performed does not require a license under general law.

The bill will likely have an indeterminate, negative impact on state government and does not appear to have a fiscal impact on local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Preemption

State preemption precludes a local government from exercising authority in a particular area, and requires consistency with the state constitution or state statute.[1] A local government enactment may be found inconsistent with state law if (1) the Legislature has preempted a particular subject area to the state or (2) the local regulation conflicts with a state statute.[2]

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.[3] Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.[4] When local ordinances have been enacted in the face of state preemption, the effect has been to find such ordinances null and void.[5]

Implied preemption is a legal doctrine that addresses situations in which the legislature has not expressly preempted an area but, for all intents and purposes, the area is dominated by the state. Findings of implied preemption are for a very narrow class of areas in which the state has legislated pervasively.[6]

Local Government Authority

General law authorizes counties "the power to carry on county government" and to "perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law."[7] More specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.[8] Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by vote of the electors.[9]

Likewise, municipalities[10] have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform functions, provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[11]

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,[12] special act,[13] local ordinance,[14] or by rule of the Governor and Cabinet.[15] A special district has only those

[1] James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009), available at https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/.
[2] *Id.*
[3] *See City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So. 3d 309 (Fla. 2008).
[4] *Mulligan*, 934 So. 2d at 1243.
[5] *See, e.g., Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami,* 812 So.2d 504 (Fla. 3d DCA 2002).
[6] Wolf and Bolinder, *supra* note 1.
[7] *Id.*
[8] Art. VIII, s. 1(f), Fla. Const.
[9] Art. VIII, s. 1(g), Fla. Const.
[10] A municipality is a local government entity created to perform functions and provide services for the particular benefit of the population within the municipality, in addition to those provided by the county. The term "municipality" may be used interchangeably with the terms "town," "city," and "village."
[11] Art. VIII, s. 2(b), Fla. Const. *See also* s. 166.021(1), F.S.
[12] S. 189.031(3), F.S.
[13] *Id.*
[14] S. 189.02(1), F.S.

powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[16]

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality.[17] An "independent special district" is any district that is not a dependent special district.[18]

Revenue Sources Authorized in the Florida Constitution[19]

The Florida Constitution limits the ability of local governments to raise revenue for their operations. The Florida Constitution provides:

> No tax shall be levied except in pursuance of law. No state ad valorem taxes[20] shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.[21]
>
> Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.[22]

However, not all local government revenue sources are taxes requiring general law authorization. When a county or municipal revenue source is imposed by ordinance, the question is whether the charge is a valid assessment or fee. As long as the charge is not deemed a tax, the imposition of the assessment or fee by ordinance is within the constitutional and statutory home rule powers of county and municipal governments. If the charge is not a valid assessment or fee, it is deemed a revenue source requiring general law authorization.

Revenue Sources Based on Home Rule Authority

Pursuant to home rule authority, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. A regulatory fee should not exceed the regulated activity's cost and is generally required to be applied solely to the regulated activity's cost for which the fee is imposed.[23]

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[15] S. 190.005(1), F.S. *See*, generally, s. 189.012(6), F.S.
[16] *2018 – 2020 Local Gov't Formation Manual*, p. 62, https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf (last visited Dec 19, 2019).
[17] S. 189.012(2), F.S.
[18] S. 189.012(3), F.S.
[19] The Florida Legislature, Office of Economic and Demographic Research, 2019 Local Government Financial Information Handbook, p. 1, http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf.
[20] "Ad valorem tax" means a tax based upon the assessed value of property." Section 192.001(1), F.S.
[21] Art. VII, s. 1(a), Fla. Const.
[22] Art. VII, s. 9(a), Fla. Const.
[23] EDR, *supra* note 19, at 9.

General law directs a number of state agencies and licensing boards to regulate certain professions and occupations. For example, the Department of Business and Professional Regulation (DBPR) currently regulates approximately 25 professions and occupations.[24]

In 2021, HB 735[25] was enacted, relating to preempting occupational licensing to the state. The law defines the following terms:

- "Local government" means a county, municipality, special district, or political subdivision of the state.
- "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.
- "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.

The law expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless:

- The licensing of occupations by local governments is authorized by general law; or
- The local licensing scheme for an occupation was imposed before July 1, 2021. However, any such local licensing scheme expires on July 1, 2023.

The law provides that any local licensing of an occupation not authorized under the provisions of the bill or otherwise authorized by general law does not apply and may not be enforced. For example, Florida law specifically authorizes local regulations relating to:

- Zoning and land use;
- The levy of "reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter";[26]
- The levy of local business taxes;[27]
- Building code inspection fees;[28]
- Tattoo establishments;[29]
- Massage practices;[30]
- Child care facilities;[31]
- Taxis and other vehicles for hire;[32] and
- Waste and sewage collection.[33]

Additionally, Florida law specifically preempts local regulation with regard to the following:

- Zoning of family day care homes;[34]
- Zoning of community residential homes;[35]
- Pest control;[36]
- Assessing local fees in certain circumstances for contractors;[37]
- Assessing local fees for low-voltage alarm system projects;[38]

[24] S. 20.165, F.S.
[25] Ch. 2021-214, L.O.F.
[26] S. 166.221, F.S.
[27] Ch. 205, F.S.
[28] S. 166.222, F.S.
[29] S. 381.00791, F.S.
[30] S. 480.052, F.S.
[31] S. 402.306, F.S
[32] S. 125.01(1)(n), F.S.
[33] S. 125.01(1)(k), F.S.
[34] S. 125.0109, F.S.
[35] S. 419.001, F.S.
[36] S. 482.242(1), F.S.
[37] S. 553.80(7)(d), F.S.
[38] S. 489.503(14), F.S.

- Public lodging establishments and public food service establishments;[39]
- Food trucks;[40]
- Mobile home parks, lodging parks, recreational vehicle parks, and recreational camps;[41]
- Beekeeping;[42]
- Nonresidential farm buildings, farm fences and farm signs;[43]
- Insurers and agents;[44]
- Sellers of travel;[45]
- Movers of household goods and moving brokers;[46]
- Tobacco and nicotine products;[47]
- Firearms, weapons, and ammunition;[48]
- Employment benefits;[49]
- Polystyrene products;[50] and
- Disposable plastic bags.[51]

Construction Professional Licenses

Chapter 489, F.S., relates to "contracting," with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR. The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate. The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.[52]

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.[53]

"Certified specialty contractors" are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.

"Registered contractors" are individuals that have taken and passed a local competency examination and can practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.[54]

The CILB licenses the following types of contractors:[55]

[39] S. 509.032, F.S.
[40] S. 509.102, F.S.
[41] S. 513.051, F.S.
[42] Ss. 586.10(1) & 586.055, F.S.
[43] S. 604.50, F.S.
[44] S. 624.401(3), F.S.
[45] S. 559.939
[46] S. 507.13, F.S.
[47] Ch. 569, F.S., and s. 386.209, F.S.
[48] S. 790.33(1), F.S.
[49] S. 218.077, F.S.
[50] S. 500.90, F.S.
[51] S. 403.7033, F.S.
[52] S. 489.107, F.S.
[53] S. 489.105, F.S.
[54] S. 489.103, F.S.
[55] S. 489.105(a)-(q), F.S.; R. 61G4-15.015-.040, F.A.C.

Statutory Licenses	Specialty Licenses
• Air Conditioning- Classes A, B, and C • Building • General • Internal Pollutant Storage Tank Lining Applicator • Mechanical • Plumbing • Pollutant Storage Systems • Pool/Spa- Classes A, B, and C • Precision Tank Tester • Residential • Roofing • Sheet Metal • Solar • Underground Excavation	• Drywall • Demolition • Gas Line • Glass and Glazing • Industrial Facilities • Irrigation • Marine • Residential Pool/Spa Servicing • Solar Water Heating • Structure • Swimming Pool Decking • Swimming Pool Excavation • Swimming Pool Finishes • Swimming Pool Layout • Swimming Pool Piping • Swimming Pool Structural • Swimming Pool Trim • Tower

Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.[56] Local governments may only collect licensing fees that cover the cost of regulation.[57]

Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license. However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with DBPR.[58]

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the ECLB. Certified contractors can practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.[59]

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking. Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses:

- Lighting maintenance specialty contractor;
- Sign specialty electrical contractor;
- Residential electrical contractor;
- Limited energy systems specialty contractor; and
- Utility line electrical contractor.[60]

HB 735 specifically preempted local licensing that is outside the scope of state contractor licensing provisions. Specifically, it provided that a county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB after

[56] Ss. 489.117 and 489.131, F.S.
[57] EDR, *supra* note 19, at 9.
[58] Ss. 489.105 and 489.117(4), F.S.
[59] *See generally* s. 489.505, F.S.
[60] S. 489.505(19), & 489.511(4), F.S; Rule 61G6-7.001, F.A.C.

July 1, 2023. The bill precluded counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

The law also expressly authorized counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. The licensing of those specific local journeyman licenses is exempt from preemption.

Since the law was enacted, certain local jurisdictions and local contractors have noted issues with the law and it's enforcement. For example, some local jurisdictions will no longer continue to license certain types of contractors, even though those contractors perform work that corresponds to a state license and ch. 489, F.S., provides authority to do so.[61]

Some have stated that local enforcement agencies are not allowing unlicensed professionals to pull permits for work that is outside of the scope of contracting, but previously required a local license.[62] However, current law does not require a professional license to pull a permit for such work.

Florida Building Code

In response to the destruction of Hurricane Andrew, in 1998, the Legislature approved a single state building code and enhanced the oversight role of the state over local code enforcement. In 2000, the Legislature authorized the implementation of the Building Code (Code), and that first edition replaced all local codes on March 1, 2002, making it the first statewide building code in the United States.[63]

The "Florida Building Codes Act" was created to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state Code. The Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[64]

The Florida Building Commission (Building Commission) was statutorily created to implement the Code. The Building Commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Code. The Building Commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes (model codes) to determine if the Code needs to be updated and adopts an updated Code every three years.[65]

Local 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.[66] Every local government must enforce the Building Code and issue building permits.[67] It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency 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.[68]

Effect of the Bill

[61] Lee County, Contractor Licensing, https://www.leegov.com/dcd/ContLic (last visited Mar. 19, 2023).
[62] Patrick Fraser and Gabby Hernandez, WSVN-TVSunbeam Television Corp, 7 News Miami, July 11, 2022, *Confusing state law: Licenses*, https://wsvn.com/news/help-me-howard/confusing-state-law-licenses/ (last visited Mar. 19, 2023).
[63] *Id*.
[64] *See* s. 553.72(1), F.S.
[65] Ss. 553.73 and 553.74, F.S.
[66] S. 553.72, F.S.
[67] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[68] Ss. 125.56(4)(a) and 553.79(1), F.S.

The bill requires the CILB, by July 1, 2023, to, by rule, establish certified specialty contractor categories for voluntary licensure for all of the following:

- Structural aluminum or screen enclosures.
- Marine seawall work.
- Marine bulkhead work.
- Marine dock work.
- Marine pile driving.
- Structural masonry.
- Structural prestressed, precast concrete work.
- Rooftop solar heating installation.
- Structural steel.
- Window and door installation, including garage door installation and hurricane or windstorm protection.

The bill provides that a local government may not require a license issued by the local government or DBPR for a job scope which does not substantially correspond to the job scope of one of the contractor or specialty contractor categories.

The bill also prohibits local governments from requiring a license to obtain a permit for a job scope outside of the practice of contracting, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

The bill provides that a local government may not require a license as a prerequisite to submit a bid for public work projects if the work to be performed does not require a license under general law.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 489., F.S.; relating to specialty contractors.
Section 2: Amends s. 89.117, F.S.; relating to local licensing requirements.
Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill may increase revenues due to an increase of specialty contractors licensed by DBPR.

2. Expenditures:

   The bill may have an increase in regulatory expenditures related to creating new specialty licenses and a possible increase in specialty contractors.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires significant rulemaking to create specified specialty licenses. The CILB has authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to specialty contractors; amending s. 489.113, F.S.; requiring the Construction Industry Licensing Board to establish certified specialty contractor categories for voluntary licensure by a specified date; amending s. 489.117, F.S.; prohibiting local governments from imposing new licensing requirements for certain specialty contractors; providing an effective date.

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

Section 1. Subsection (6) of section 489.113, Florida Statutes, is amended to read:

489.113 Qualifications for practice; restrictions.—

(6)(a) The board shall, by rule, designate those types of specialty contractors which may be certified under this part. The limit of the scope of work and responsibility of a specialty contractor shall be established by the board by rule. However, a certified specialty contractor category established by board rule exists as a voluntary statewide licensing category and does not create a mandatory licensing requirement. Any mandatory statewide construction contracting licensure requirement may only be established through specific statutory provision.

(b) By July 1, 2023, the board shall, by rule, establish

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

certified specialty contractor categories for voluntary licensure for all of the following:

1. Structural aluminum or screen enclosures.

2. Marine seawall work.

3. Marine bulkhead work.

4. Marine dock work.

5. Marine pile driving.

6. Structural masonry.

7. Structural prestressed, precast concrete work.

8. Rooftop solar heating installation.

9. Structural steel.

10. Window and door installation, including garage door installation and hurricane or windstorm protection.

Section 2. Paragraph (a) of subsection (4) of section 489.117, Florida Statutes, is amended to read:

489.117 Registration; specialty contractors.—

(4)(a)1. A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211, may not require a person to obtain a license, issued by the local government or the state, for a job scope which does not substantially correspond to the job scope of one of the contractor categories

defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1), or the job scope of one of the certified specialty contractor categories established pursuant to s. 489.113(6). A local government may not require a license as a prerequisite to submit a bid for public work projects if the work to be performed does not require a license under general law.

2. For purposes of this section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; stuccoing; caulking; and canvas awning and ornamental iron installation. A local government may not require a license to obtain a permit for such job scopes.

Section 3. This act shall take effect July 1, 2023.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1395 Management and Safety of Condominium and Cooperative Buildings
SPONSOR(S): Lopez, V.
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 154

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

On June 24, 2021, Champlain Towers South, a 12-story beachfront condominium building in the Town of Surfside, partially collapsed resulting in the death of 98 people. In response, during Special Session D, 2022, SB 4-D was enacted to provide building safety inspection requirements for condominium and cooperative association buildings (milestone inspections) and revise the requirements for funding reserves for the continued maintenance and repair of such buildings (structural integrity reserve study, or SIRS).

The bill clarifies provisions created by SB-4-D. Specifically, the bill:

- Requires all condominium and cooperative buildings to have a milestone inspection when they reach 25 years of age, without regard to location.
- Allows local governments to extend the deadline to complete a milestone inspection, under certain circumstances.
- Extends the deadline for certain condominiums and cooperatives built between 1994 to 2000 to complete the milestone inspection and SIRS.
- Allows condominiums and cooperatives to use prior inspection reports completed within the last 5 years for both the milestone inspection and SIRS, under certain circumstances.
- Requires phase 2 of milestone inspections to begin within 180 days of completing phase 1, if a phase 2 inspection is necessary.
- Increases the number of professionals available to perform milestone inspections and structural integrity reserve studies;
    - Allows certain general contractors and building code professionals with at least 5 years' threshold building experience to do the visual inspection portion of SIRS and phase one of the milestone inspection, in addition to architects and engineers.
    - Phase two of the milestone inspection may only be performed by an architect or engineer.
- Limits setting reserves for only those items that have 25 years or less of useful life remaining.
- Requires the Florida Building Commission to create a uniform form for certain inspection reports.
- Requires milestone inspection and SIRS reports, and related disclosures, to be included with real estate sales contracts.
- Allows an injunction process to enforce milestone inspection and SIRS requirements in county court.
- Allows unit owners to utilize pre-suit mediation to resolve certain disputes related to milestone inspections and SIRS.

The bill will likely have an indeterminate negative impact on state government and does not appear to affect local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Community Associations – Background

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, alternative dispute resolution, 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.
- Homeowners' associations (limited to the arbitration of election and recall disputes).

Condominiums

A condominium is a form of real property ownership created under ch. 718, F.S., the "Condominium Act." Persons own condominium units along with an undivided right of access to the condominium's common elements.[1] A condominium is created by recording a declaration of condominium, which governs the relationship between condominium unit owners and the condominium association, in the public records of the county where the condominium is located.[2] All unit owners are members of the condominium association, and the association is responsible for common elements operation and maintenance.[3] The condominium association is overseen by an elected board of directors, commonly referred to as a "board of administration," which is responsible for the association's administration.[4]

Cooperatives

A cooperative is a form of property ownership created under ch. 719, F.S., the "Cooperative Act," in which the real property is owned by the cooperative association and individual units are leased to the residents, who own shares in the association.[5] The lease payment amount is the pro-rata share of the cooperative's operational expenses. Cooperatives operate similarly to condominiums, and the laws regulating cooperatives are largely identical to those regulating condominiums.

Fiduciary Relationship

Board members and officers of a condominium or cooperative association have a fiduciary relationship with the unit owners in their condominium or cooperative. This fiduciary relationship requires board members and officers to act in good faith and in the best interests of the unit owners. Under the "business judgment rule," the board must act within the scope of its authority, in a reasonable manner, and must perform its duties with the care and responsibility that an ordinarily prudent person would exercise under similar circumstances.[6]

Board members and officers can be the subject of a cause of action for a breach of their fiduciary duty. However, a person bringing such action must prove that the board member or officer had a fiduciary

[1] S. 718.103(11), F.S.
[2] S. 718.104(2), F.S.
[3] S. 718.103(2), F.S.
[4] S. 718.103(4), F.S.
[5] S. 719.103(2), (26), F.S.
[6] Ss. 718.111(1) and 719.104(8), F.S.

duty that was breached that caused damages and rose to the level of criminal activity, fraud, self-dealing, unjust enrichment, or other improper personal benefit.[7]

To determine if a board member or officer breached his or her fiduciary duty, Florida courts look to see if the board member or officer violated the business judgment rule by determining if the association had the contractual or statutory authority to perform the relevant act and if the decision was reasonable. The business judgment rule generally will protect association board members and officers, as long those board members or officers act within the scope of their authority and in a reasonable manner.[8]

It is a breach of a board member or officer's fiduciary duty if an association fails to complete a milestone inspection or structural integrity reserve study.

Florida Building Code

In response to the destruction of Hurricane Andrew, in 1998, the Legislature approved a single state building code and enhanced the oversight role of the state over local code enforcement. In 2000, the Legislature authorized the implementation of the Building Code (Code), and that first edition replaced all local codes on March 1, 2002, making it the first statewide building code in the United States.[9]

The "Florida Building Codes Act" was created to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state Code. The Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[10]

The Florida Building Commission (Building Commission) was statutorily created to implement the Code. The Building Commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Code. The Building Commission reviews several International Codes published by the International Code Council, the National Electric Code, and other nationally adopted model codes (model codes) to determine if the Code needs to be updated and adopts an updated Code every three years.[11]

Local 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.[12] Every local government must enforce the Building Code and issue building permits.[13] It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency 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.[14]

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.[15] Construction work may not be done beyond a certain point until it

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[7] Harris B. Katz, *Condo column: Can board members be sued and how can an association remove a director?*, TC Palm (Oct. 17, 2019) https://www.tcpalm.com/story/news/local/florida/2019/10/17/can-condo-board-members-sued-and-how-can-association-remove-director/3907749002/ (last visited Mar. 19, 2023).
[8] *Id.*; *Hollywood Towers Condominium Association v. Hampton*, 40 So. 3d 784, 787 (Fla. 4th DCA 2010).
[9] *Id.*
[10] *See* s. 553.72(1), F.S.
[11] Ss. 553.73 and 553.74, F.S.
[12] S. 553.72, F.S.
[13] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[14] Ss. 125.56(4)(a) and 553.79(1), F.S.
[15] 2020 Florida Building Code (7th ed.), s. 110.

passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.[16]

The Florida Building Code does not contain mandatory requirements for the maintenance and inspection of existing buildings in the state. Mandatory inspections of existing condominium buildings were once required by Florida law, but the law was repealed shortly after enactment. In 2008, the Legislature mandated that every condominium greater than three stories in height be inspected for maintenance, useful life, and replacement costs of the common elements every five years by an engineer or architect licensed in the state.[17] A condominium association could waive this requirement for five years by a majority vote of interests present at a properly called meeting of the association.[18] This provision was repealed in 2010.[19]

Building Code Administrators and Inspectors

Building officials, inspectors, and plans examiners are regulated by the Florida Building Code Administrators and Inspectors Board within DBPR.[20]

A building code administrator, also known as a building official, is a local government employee or a person contracted by a local government who supervises building code activities, including plans review, enforcement, and inspection.[21]

A building code inspector (inspector) inspects construction that requires permits to determine compliance with the Building Code and state accessibility laws. Inspectors are divided into several different categories. An inspector's ability to practice is limited to the category or categories in which the inspector has been licensed. The inspector categories are:[22]

- Building inspector;
- Coastal construction inspector;
- Commercial electrical inspector;
- Residential electrical inspector;
- Mechanical inspector;
- Plumbing inspector;
- Residential inspector; and
- Electrical inspector.

In order to become an inspector, an applicant must meet the following criteria:[23]

- Be at least 18 years of age,
- Be of good moral character,
- Successfully complete the inspector exam, and
- Meet eligibility requirements according to an accepted combination of education and experience, which consists of completing a combined 3 to 4 years of proven experience, college-level credits or a degree, a training program, and an internship program.

In order to become an inspector, an applicant must meet the following criteria:[24]

- Be at least 18 years of age,
- Be of good moral character,

[16] Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, at: http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20%E2%80%93%20Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf (last visited Mar. 19, 2023).
[17] Ch. 2008-28, L.O.F.
[18] *Id*.
[19] Ch. 2010-176, s. 59, L.O.F.
[20] S. 468.605, F.S.
[21] S. 468.603(2), F.S.
[22] S. 468.603(5), F.S.
[23] S. 468.609(2), F.S.
[24] S. 468.609(3), F.S.

- Successfully complete the building code administrator exam, and
- Meet eligibility requirements according to an accepted combination of education and experience, which consists of completing a combined 10 years of proven architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent experience and postsecondary education in the field of construction or related field.

General Contractors

General contractors are regulated by the Construction Industry Licensing Board within DBPR. A general contractor may provide unlimited construction services and may contract for and perform any construction activity requiring licensure, with certain exceptions, such as electrical, mechanical, plumbing work.[25]

In order to become a construction contractor, an applicant must meet the following criteria:[26]
- Be of good moral character;
- Be at least 18 years of age;
- Successfully pass the certification examination; and
- Meet eligibility requirements according to an accepted combination of education and experience, which consists of completing a combined 4 to 5 years of proven experience and college-level credits or a degree.[27]

Threshold Buildings

In 1981, a "five-story Harbour Cay Condominium building in Cocoa Beach, Florida, collapsed during the placement of concrete for the roof slab, killing 11 workers and injuring 23 more."[28] In response to this tragedy, the Legislature instituted threshold building inspections, requiring licensed "special inspectors" to conduct structural inspections for all threshold buildings.[29] A special inspector is a licensed architect or registered engineer to conduct inspections of threshold buildings.[30]

A threshold building is defined as any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification, as defined in the Building Code, which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.[31] An enforcing agency must require a special inspector to perform structural inspections on a threshold building during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.[32]

For a building that qualifies as a threshold building, a structural inspection plan must be submitted by the special inspector and the design professional of record to the enforcing agency prior to the issuance of a building permit for the construction of or modification to the building.[33] However, a fee-simple owner may declare a building a threshold building even when it does not meet the definitions.[34]

The inspection plan for a threshold building provides specific inspection instructions or the adequate inspection of construction. The owner must retain the services of a special inspector who must inspect

[25] Ss. 489.105(3)(a) and 489.113, F.S.
[26] S. 489.111(1)-(3), F.S.
[27] S. 489.111(2)(c)1.-3., F.S.
[28] National Institute of Standards and Technology, Harbour Cay Condominium Collapse Florida 1981, available at https://www.nist.gov/el/harbour-cay-condominium-collapse-florida-1981 (last visited Mar. 19, 2023).
[29] Florida Building Commission, Florida Building Construction Standards available at https://www.floridabuilding.org/fbc/commission/FBC_0413/Commission_Education_POC/173/173-1-MATERIAL%20.pdf (last visited Mar. 19, 2023).
[30] *See* s. 553.71, F.S.
[31] *Id.*
[32] S. 553.79(5)(a), F.S.
[33] *Id.*
[34] *Id.*

the building according to the special inspection plan. In addition, the inspector must determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency.[35] Special inspectors report directly to local building administrators. The role of threshold building inspectors is unique to Florida.[36]

Champlain Towers South and SB 4-D (Special Session D 2022)

On June 24, 2021, Champlain Towers South, a 12-story beachfront condominium building in the Town of Surfside, which was completed in 1981, partially collapsed resulting in the death of 98 people.

In response, the National Institute of Standards and Technology (NIST) within the United States Department of Commerce launched a full investigation into the cause of the building's failure. According to NIST, it will provide regular progress updates, but because of the amount of evidence and, the investigation could take multiple years to complete.[37]

Despite the fact that the investigations to determine the cause of the building's failure may take months if not years to complete, the condition of the building prior to collapse and released documentation about the building's history have revealed potential factors that may have caused or contributed to the building's collapse,[38] including issues with the pool deck[39] and building design flaws.[40] According to news reports, the association also delayed the repairs of the issues identified in the engineering reports because of infighting among members of the association.[41]

In response to the Champlain Towers South collapse, during the Special Session D, 2022, SB 4-D[42] was enacted to revise the laws related to building safety. The bill provided building safety inspection requirements for condominium and cooperative association buildings (milestone inspections), increased the rights of unit owners and prospective unit owners to access information regarding the condition of such buildings, and revised the requirements for associations to fund reserves for the continued maintenance and repair of such buildings (structural integrity reserve study).

SB 4-D required the Building Commission to make recommendations to the Governor and Legislature regarding the inspection requirements in the bill. This report was completed on December 14, 2022, and some of the recommendations were included in the bill.

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[35] *Id.*

[36] Florida Board of Professional Engineers, *What Are Threshold Building Inspectors?*, available at https://fbpe.org/what-are-threshold-building-inspectors/ (last visited Mar. 19, 2023).

[37] National Institute of Standards and Technology, *NIST Establishes Expert Team to Investigate the Champlain Towers South Collapse*, Aug. 25, 2021 https://www.nist.gov/news-events/news/2021/08/nist-establishes-expert-team-investigate-champlain-towers-south-collapse (last visited Mar. 19, 2023).

[38] The Occupational Safety and Health Administration, the town of Surfside and Miami-Dade County's State Attorney's Office are also investigating the collapse. The Real Property, Probate and Trust Law Section of the Florida Bar created the Condominium Law and Policy on Life Safety Task Force, which provided recommendations to improve building safety on October 12, 2021. In addition, the Miami-Dade police are handling a homicide investigation, and the unit owners have filed a class-action lawsuit against the condo association.

[39] Gina Harkins, *What you need to know about the Florida condo collapse as the search for survivors continues and probe begins*, Washington Post (Jul. 10, 2021), https://www.washingtonpost.com/nation/2021/06/25/florida-condo-collapse-what-you-should-know/ (last visited Mar. 19, 2023); Visual Journalism Team, *Miami building collapse: What could have caused it?*, BBC (Jul. 1, 2021) https://www.bbc.com/news/world-us-canada-57651025 (last visited Mar. 19, 2023).

[40] Alissa Walker, *Collapsed Surfside Towers Actually Broke Building Code From the Very Beginning*, Curbed (Aug. 9, 2021) https://www.curbed.com/2021/08/miami-condo-collapse-structural-flaws.html (last visited May 31, 2022); James Glanz, Mike Baker, and Anjali Singhvi, *Condo Wreckage Hints at First Signs of Possible Construction Flaw*, The New York Times (Jul. 3, 2021) https://www.nytimes.com/2021/07/03/us/florida-condo-collapse-steel-rebar.html (last visited Mar. 19, 2023).

[41] Russell Lewis, *Months Before Florida Condo Collapsed, Residents And The Board Sparred Over Repairs*, NPR (Jul. 2, 2021) https://www.npr.org/sections/live-updates-miami-area-condo-collapse/2021/07/02/1012373938/months-before-florida-condo-collapse-residents-and-board-sparred-over-repairs (last visited Mar. 19, 2023); Beth Reinhard, Tik Root, Brady Dennis, and Jon Swaine, *Majority of Florida condo board quit in 2019 as squabbling residents dragged out plans for repairs*, Washington Post (Jun. 30, 2021) https://www.washingtonpost.com/investigations/majority-of-florida-condo-board-quit-in-2019-as-squabbling-residents-dragged-out-plans-for-repairs/2021/06/30/43592282-d98e-11eb-ae62-2d07d7df83bd_story.html (last visited Mar. 19, 2023).

[42] Ch. 2022-269, L.O.F.

SB 4-D also required associations to report to the Division on or before January 1, 2023, the number of buildings that are three stories or higher in height and the total number of units in such buildings and required the division to publish that information on its website. While the full report is being completed by the Division, the total number of reporting entities is 6,132, the total number of buildings 3 stories or higher is 22,338, and the total number of units is 688,439.[43]

Age of Condominium Buildings

There are 1,529,764 condominium units in Florida operated by 27,588 associations. Of those units:[44]

- 105,404 units are 50 years or older.
- 479,435 units are 40-50 years old.
- 327,537 units are 30-40 years old.
- 141,773 units are 20-30 years old.
- 428,657 units are 10-20 years old.
- 46,958 units are 0-10 years old.

Additionally, over 2,000,000 residents are estimated to be occupying condominiums 30 years or older in Florida, based upon census data of approximately 2.2 persons living in an average condominium unit.[45]

Local Building Recertification Programs

Until 2022, Florida does not generally require recertification of buildings or regular inspections of existing buildings, which is consistent with state building codes across the country.[46] However, local governments adopted such requirements at their discretion to apply throughout a local jurisdiction. According to DBPR, some local jurisdictions in the state have used the following model standards to aid in their adoption of local requirements for the maintenance and inspections of existing buildings: the International Property Maintenance Code, the Standard Housing Code, and the Standard Unsafe Building Abatement Code, or some combination thereof.[47]

Miami-Dade and Broward Counties have amended their local building codes to require a recertification process and inspection of buildings 40 years and older. Miami-Dade's program was established in 1975,[48] and Broward County's program was modeled after Miami-Dade's and has been in effect since January 2006.[49]

Miami Dade's recertification program states that:

> All buildings, except single-family residences, duplexes and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for forty (40) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner. Subsequent recertification shall be

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[43] Email from Jonas Marquez, Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: Condo/Co-Op Reporting (Feb. 15, 2021).
[44] Report of the Florida Bar RPPTL Condominium Law and Policy Life Safety Advisory Task Force, p. 4, *available at:* https://www-media.floridabar.org/uploads/2021/10/Condominium-Law-and-Policy-Life-Safety-Advisory-Task-Force-Report.pdf (last visited Mar. 19, 2023).
[45] *Id*.
[46] Department of Business and Professional Regulation, Agency Analysis of 2022 Senate Bill 1702, p. 2 (Jan. 7, 2022).
[47] *Id*.
[48] Miami-Dade Recertification at https://www.miamidade.gov/global/economy/building/recertification.page#:~:text=Miami%2DDade%20County%20has%20had,amended%20on%20June%201%2C%202022 (last visited Mar. 19, 2023).
[49] Broward County, Building Safety Inspection Program, available at https://www.broward.org/CodeAppeals/Documents/Broward%20County%20Building%20Safety%20Inspection%20Program.pdf (last visited Mar. 19, 2023).

> required at ten (10) years interval. In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than forty (40) years of age, recertification shall not be required for a minimum of ten (10) years from that time, or age forty (40), whichever is the longer period of time.[50]

Inspection procedures must "conform, in general, to the minimum inspection procedural guidelines" issued by the county, and are for the purpose of determining the general structural condition of the building or structure to the extent reasonably possible which affects the safety of the building or structure.[51] Miami-Dade's recertification program exempts buildings under 2,000 square feet,[52] and Broward's program exempts buildings under 3,500 square feet.[53] The inspections must be carried out by a professional engineer or architect registered with the State of Florida.[54]

Following the 2021 tragedy in Surfside, Florida, the concept of recertification programs gained considerable attention. The City of Boca Raton recently instituted a building recertification program for buildings over 30 years of age that are greater than three stories or 50 feet in height, or greater than 5,000 square feet and have an occupancy greater than 500 people.[55]

Milestone Inspections – Current Situation

Under s. 553.899, F.S, a "milestone inspection" means a structural inspection of a building, including an inspection of load-bearing walls, primary structural members, and primary structural systems[56] by a licensed architect or engineer for the purposes of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the fire safety code.

A condominium or cooperative must have a milestone inspection performed for each building that is three stories or more in height by December 31 of the year in which the building reaches 30 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. If the building is located within 3 miles of a coastline[57], the condominium or cooperative must have a milestone inspection performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. This requirement does not apply to a single-family, two-family, or three-family dwelling with three or fewer habitable stories above ground.

If a milestone inspection is required and the building's certificate of occupancy was issued on or before July 1, 1992, the building's initial milestone inspection must be performed before December 31, 2024. If the date of issuance for the certificate of occupancy is not available, the date of issuance of the building's certificate of occupancy is to be the date of occupancy evidenced in any record of the local building official.

Upon determining that a building must have a milestone inspection, the local enforcement agency must provide written notice of such required inspection to the condominium or cooperative by certified mail, return receipt requested. Within 180 days after receiving such written notice, the condominium or

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[50] *See* Code of Miami-Dade, ch. 8 Building Code, s. 8-11(f)(ii), at https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOOR_CH8BUCO_ARTIAD_S8-11EXBU (last visited Mar. 19, 2023).
[51] *Id*. at s. 8-11(f)(i).
[52] *Id*. at s. 8-11(f)(ii).
[53] Broward County, *supra* note 49.
[54] *Id*. and *See* Code of Miami-Dade, ch. 8, Building Code, s. 8-11(iv).
[55] City of Boca Raton. Ordinance 5589, *available at:* https://www.myboca.us/DocumentCenter/View/28152/Ordinance-No-5589?bidId= (last visited Mar. 19, 2023).
[56] As they are defined in s. 627.706, F.S.
[57] "Coastline" has the same meaning as in the Submerged Lands Act, 43 U.S.C. ss. 1301 et seq.

cooperative must complete phase one of the milestone inspection. Completion of phase one of the milestone inspection means the **licensed engineer or architect** who performed the phase one inspection submitted the inspection report by e-mail, United States Postal Service, or commercial delivery service to the local enforcement agency.

A milestone inspection consists of two phases.

For phase one of the milestone inspection, a licensed architect or engineer must perform a visual examination of habitable and nonhabitable areas of a building, including the major structural components of a building, and provide a qualitative assessment of the structural conditions of the building. If the architect or engineer finds no signs of substantial structural deterioration[58] to any building components under visual examination, phase two of the inspection is not required.

Phase two of the milestone inspection must be performed if any substantial structural deterioration is identified during phase one. A phase two inspection may involve destructive or nondestructive testing at the inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged portions of the building. When determining testing locations, the inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure.

The bill requires that upon completion of a phase one or phase two milestone inspection, the architect or engineer who performed the inspection must submit a sealed copy of the inspection report with a separate summary of, at minimum, the material findings and recommendations in the inspection report to the condominium or cooperative, and to the building official of the local government which has jurisdiction. The inspection report must, at a minimum, meet all of the following criteria:

- Bear the seal and signature, or the electronic signature, of the licensed engineer or architect who performed the inspection.
- Indicate the manner and type of inspection forming the basis for the inspection report.
- Identify any substantial structural deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.
- State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.
- Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.
- Identify and describe any items requiring further inspection.

The condominium or cooperative must:

- distribute a copy of the inspector-prepared summary of the inspection report to each condominium unit owner or cooperative unit owner, regardless of the findings or recommendations in the report, by United States mail or personal delivery and by electronic transmission to unit owners who previously consented to received notice by electronic transmission;
- post a copy of the inspector-prepared summary in a conspicuous place on the condominium or cooperative property; and
- publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website.

A local enforcement agency may prescribe timelines and penalties with respect to compliance.

[58] "Substantial structural deterioration" means substantial structural distress that negatively affects a building's general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless the licensed engineer or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.

If a condominium or cooperative is required to have a milestone inspection, the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance. The association is responsible for all costs associated with the inspection. If the officers or directors of an association willfully and knowingly fail to have a milestone inspection, such failure is a breach of the officers' and directors' fiduciary relationship to the unit owners.

Milestone Inspections – Effect of the Bill

The bill requires every condominium or cooperative association to complete a milestone inspection performed for each building that is three stories or more in height by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. The bill removed the provision that treated inland buildings differently than coastal buildings by setting the deadline to complete a milestone inspection for inland condominiums and cooperatives at 30 years.

The bill clarifies that condominium or cooperative associations that only include a single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground are not subject to milestone inspection requirements.

The bill clarifies the deadline to complete a required milestone inspection. The bill requires that if a building's certificate of occupancy was issued on or before December 31, 1994, the building's initial milestone inspection must be performed before December 31, 2024. If the building's certificate of occupancy was issued during the period of January 1, 1995, through December 31, 2000, the building's initial milestone inspection must be performed before December 31, 2026.

The bill allows a local enforcement agency to extend the deadline for a building's initial milestone inspection upon a showing of good cause by the condominium or cooperative association that the association has entered into a contract for the performance of the milestone inspection but that the inspection cannot reasonably be completed before the deadline.

The bill requires a condominium or cooperative association to notify the unit owners of a required milestone inspection and provide the date that the milestone inspection must be completed within 14 days after receipt of the written notice from the local enforcement agency.

The bill allows phase one of the milestone inspection to be performed by, in addition to professional engineers and architects:

- a licensed general contractor with at least 5 years' experience building or constructing threshold buildings, and
- a licensed building code administrator or building code inspector with at least 5 years' experience inspecting threshold buildings.

The bill requires a general contractor, building code administrator, or building code inspector who has competed a phase one milestone inspection report to submit a copy of the report, to the building official of the local jurisdiction where the association is located, under an attestation that the report complies with all requirements, similar to the seal requirement for an professional engineer or architect.

Phase two of the milestone inspection may still only be performed by a professional engineer or architect.

If a phase two inspection is required, the bill requires a condominium or cooperative association to contract, within 90 days after receipt of the phase one inspection report, with an architect or professional engineer to perform the phase two inspection. The architect or engineer contracted must begin the phase two inspection within 90 days after entering into a contract with the association.

The bill requires a condominium or cooperative association to distribute a copy of the inspector-prepared summary of the inspection report to each unit owner, regardless of the findings or recommendations in the report, within 60 days after receipt of the inspector-prepared summary of the milestone inspection report from any phase one or phase two milestone inspection.

The bill clarifies that a governing body of a municipality may adopt an ordinance related to timeframes for phase two inspection reports.

The bill requires the Building Commission to create a standardized milestone inspection report form for professionals to submit to the local enforcement agencies. Local enforcement agencies may develop their own forms and requirements and are not required to use the commission's standardized forms.

The bill allows associations to use a SIRS visual inspection report in place of a phase one milestone inspection report if the report was performed within the past 5 years and meets the phase one milestone inspection report requirements.

The bill removes a provision requiring a report from the Building Commission by a certain date because such report has been completed.

Structural Integrity Reserve Study – Current Situation

A reserve study is a budget-planning tool for community associations. Generally, a reserve study consists of the following two parts:[59] physical analysis and financial analysis.

In Florida law, "structural integrity reserve study" (SIRS) means a study of the reserve funds required for future major repairs and replacement of the common areas based on a visual inspection of the common areas. A SIRS may be performed by any person qualified to perform such study. However, the visual inspection portion of the SIRS must be performed by a **licensed engineer or an architect**.

At a minimum, a SIRS must:

- Identify the common areas being visually inspected,
- State the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of the common areas being visually inspected, and
- Provide a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each common area being visually inspected by the end of the estimated remaining useful life of each common area.

A condominium or cooperative must have a SIRS completed at least every 10 years after the condominium's or cooperative's creation for each building on the condominium or cooperative property that is three stories or higher in height which includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building (SIRS items):

- Roof.
- Load-bearing walls or other primary structural members.
- Floor.
- Foundation.
- Fireproofing and fire protection systems.
- Plumbing.
- Electrical systems.
- Waterproofing and exterior painting.
- Windows.

[59] Cedar Management Group, *HOA Reserve Study: Why Does Your Community Need It?*, https://cedarmanagementgroup.com/hoa-reserve-study-community/#what (last visited Mar. 19, 2023); Kevin Leonard and Robert Nordlund, Understanding Reserves: A guide to your association's reserve fund & reserve study, 26-29 (1st ed. 2021); Community Associations Institute, *National Reserve Study Standards*, https://www.reservestudy.com/wp-content/uploads/2019/01/NRSS-998-CAI-version-updated-2016.pdf (last visited Mar. 19, 2023).

- Any other item that has a deferred maintenance expense or replacement cost that exceeds $10,000 and the failure to replace or maintain such item negatively affects the items listed above as determined by the licensed engineer or architect performing the visual inspection portion of the structural integrity reserve study.

Before a developer turns over control of an association to unit owners other than the developer, the developer must have a SIRS completed for each building on the condominium or cooperative property that is three stories or higher in height.

Condominium or cooperative associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a SIRS completed by December 31, 2024, for each building on the condominium or cooperative property that is three stories or higher in height.

If a condominium or cooperative association fails to complete a SIRS, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners.

Reserves

Every condominium and cooperative association must have a budget that sets forth the proposed expenditure of funds for the maintenance, management, and operation of the association. The budget is adopted for a 12-month period reflecting an association's fiscal year, and it must provide a detailed listing of the estimated revenues and expenses that the association reasonably projects for the coming fiscal year. The annual budget is made up of two parts, the part covering the regular operations of the association and the part covering the cost for capital expenses and deferred maintenance (reserves).[60]

Reserves are funds that are set aside for capital expenses and deferred maintenance. Reserves provide funds for major capital repairs or replacements that are needed intermittently such as replacing a roof. The reserves are designed to ensure that an association will have the funds when the repairs are needed and will not have to do a large special assessment.[61]

The amount of funds that must be placed in reserve is determined by the condominium or cooperative association's most recent structural integrity reserve study. If the amount to be reserved for an item is not in the association's most recent structural integrity reserve study or the association has not completed a structural integrity reserve study, then the association may use the traditional formula or alternative formula to determine the amount of funds to reserve.

Current law also requires associations to have and fund reserve accounts for roof replacement, building painting, pavement resurfacing, and any item for which the deferred maintenance expense or replacement cost is greater than $10,000.[62] There are two methods of calculating these reserves.

The first is the traditional formula, and the second is the alternative formula. The traditional formula takes into account the estimated deferred maintenance or capital expenditure amount, estimated fund balance, and number of years remaining until deferred maintenance or a capital expenditure is needed.[63]

The alternative formula allows associations to maintain a pooled account for multiple reserve assets that are similar or related. For example, an association responsible for managing two swimming pools may create a pool reserve account for both pools instead of a reserve account for each pool. The formula for a pooled account must provide for an annual contribution that will ensure the balance on hand in the account is equal to or greater than the annual projected outflows from the account.[64]

[60] Ss. 718.112(2)(f) and 719.106(1)(j), F.S.
[61] Ss. 718.112(2)(f) and 719.106(1)(j), F.S.
[62] *Id*.
[63] *Id*.; Rules 61B-22.005(3), and 61B-76.005(1), F.A.C.
[64] Rules 61B-22.005(1), (3), and 61B-76.005(1), (3), F.A.C.

Waiver of Reserves

Effective December 1, 2024, a unit-owner controlled association may not waive collecting reserves or collect less reserve funds than required for items that are required to be inspected in a SIRS for an association building that is three stories or higher in height. In addition, unit-owner controlled associations may not use such reserve funds for purposes other than their intended purpose.

For other reserve items, associations may waive funding reserves for capital expenditures and deferred maintenance or provide funds that are less than the required amount by a majority of the voting interests present at a properly called meeting. The waiver of reserves by the membership is only for the current year, and a separate vote must be taken each year to waive the reserves or fund less than the required amount.[65] Associations may also vote to use reserve funds for purposes other than their intended purpose, such as using funds from the roof reserve account for painting buildings, by a majority of the voting interests present at a properly called meeting.[66]

Structural Integrity Reserve Study – Effect of the Bill

The bill allows the visual inspection portion of the SIRS to be performed by, in addition to professional engineers and architects:

- a licensed general contractor licensed with at least 5 years' experience building or constructing threshold buildings, and
- a licensed building code administrator or building code inspector with at least 5 years' experience inspecting threshold buildings.

The bill clarifies that only if an association is required to complete a structural integrity reserve study, is that association's reserve account required to include SIRS items. The bill also clarifies that an item does not need to be accounted for in the reserve account if it has a remaining useful life of more than 25 years.

The bill adds "exterior doors" to the list of SIRS items.

The bill clarifies the timeline to complete a SIRS. The bill requires all associations that are controlled by unit owners other than the developer to have a SIRS completed by December 31, 2024, for each building on the condominium property that is three stories or higher in height. The bill allows associations that are required to complete a milestone inspection on or before December 31, 2026 to complete the SIRS simultaneously with the milestone inspection. However, in no event may the SIRS be completed after December 31, 2026.

The bill allows associations to use a milestone inspection report or an inspection report completed for a similar local requirement in place of a SIRS visual inspection report if the report was performed within the past 5 years and meets the SIRS requirements.

Developer and Non-developer Disclosures Prior to Sale – Current Situation

Developers and non-developer owners of condominium or cooperative units must give certain documents to a prospective buyer or lessee before the execution of a contract for the sale of a residential unit, including a copy of the inspector prepared summary of the milestone inspection report, and a copy of the most recent SIRS or a statement that the association has not completed a SIRS.[67]

A developer may not close for 15 days following the execution of a purchase contract or certain lease contracts, or the delivery of the required documents to the buyer, including the documents creating the

[65] Ss. 718.112(2)(f) and 719.106(1)(j), F.S.; Rules 61B-22.005(8), and 61B-76.005(8), F.A.C.
[66] Ss. 718.112(2)(f) and 719.106(1)(j), F.S.
[67] Ss. 718.503(1) and 719.503(1), F.S.

association, the bylaws, and the estimated operating budget of the association. A prospective purchaser may void the contract within 15 days of his or her receipt of all the required documents.[68]

Developer and Non-developer Disclosures Prior to Sale – Effect of the Bill

The bill requires the following disclosures relating to milestone inspections and SIRS requirements in developer and non-developer sales contracts entered into on or after January 1, 2025, for the sale of a residential unit:

- If the association is required to have a milestone inspection or a structural integrity reserve study, and the association has not completed the milestone inspection or structural integrity reserve study, each contract must contain in conspicuous type a statement indicating that the association is required to have a milestone inspection or a structural integrity reserve study and the association has failed to complete such inspection or study, as applicable.
- If the association is required to have a milestone inspection or a structural integrity reserve study, and the association has completed such inspection or study, each contract must contain a copy of the most recent milestone inspection report or structural integrity reserve study, as applicable.
- If the association is not required to have a milestone inspection or a structural integrity reserve study, each contract must contain in conspicuous type a statement indicating that the association is not required to have a milestone inspection or a structural integrity reserve study, as applicable.

Enforcement– Current Situation

For condominium associations, the Division has jurisdiction to investigate complaints and enforce compliance with the Condominium Act for associations that are controlled by a developer, a bulk buyer, or a bulk assignee. Once a developer has turned over control of the condominium to the association the Division only has jurisdiction to investigate complaints related to financial issues, elections, and unit owner access to official records.[69]

For cooperative associations, the Division has jurisdiction to investigate complaints and enforce compliance with the Cooperative Act.[70]

If a person believes there is a violation of the Condominium Act or Cooperative Act, he or she may file a complaint with the Division. If the complaint is within the Division's jurisdiction, the Division assigns an investigator to the complaint. After investigating the complaint, if the Division has reasonable cause to believe that a violation occurred, it may initiate an enforcement proceeding in its own name as follows:[71]

- Enter in a voluntary consent proceeding with the person who violated the Condominium Act or Cooperative Act where he or she consents to stopping the violation.
- Issue a cease and desist.
- File an administrative complaint against the person.
- File an enforcement action in circuit court to seek declaratory or injunctive relief on behalf of the unit owners.
- Remove an individual from his or her position as an officer or board member of a condominium or cooperative.
- Impose civil penalties in the amount of up to $5,000 per violation.

In order to enforce the Condominium Act and Cooperative Act, the Division may conduct investigations, take sworn statements, receive evidence, and subpoena individuals and documentation. If the Division

[68] Ss. 718.503(1) and 719.503(1), F.S., providing the developer disclosures before the sale or lease of a residential condominium or cooperative unit, respectively.
[69] S. 718.501(1), F.S.
[70] S. 719.504(1), F.S.
[71] Ss. 718.501(1)(d), (m), and 719.501(1)(d), (m), F.S.

believes a person has destroyed or altered association documents or impaired the availability of association documents during an investigation, the Division must refer it to local law enforcement.[72]

The Division has authority to investigate condominium and cooperative complaints related to the procedural completion of milestone structural inspections and structural integrity reserve studies.

Alternative Dispute Resolution

There is an alternative dispute resolution process for certain disputes between unit owners and condominium or cooperative associations. Before the institution of court litigation, a party to certain disputes must either petition the division for nonbinding arbitration or initiate pre-suit mediation.[73] Alternative dispute resolution offers a more efficient, cost-effective option to court litigation, but alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.[74]

Alternative dispute resolution is required for any disagreements between two or more parties that involves:[75]

- The authority of the board of directors to require an owner to take any action, or not to take any action, involving that owner's unit or the appurtenance thereto and the authority of the board of directors to alter or add to common areas or elements;[76]
- The board of directors' failure to:
    - Properly conduct elections;
    - Give adequate notice of meetings;
    - Properly conduct meetings;
    - Provide access to association books and records; and
- A plan of termination.

The Division does not have jurisdiction to arbitrate or mediate disputes between a unit owner and an association that involve: [77]

- Title to any unit or common element;
- The interpretation or enforcement of any warranty;
- The levy of a fee or assessment, or the collection of an assessment levied against a party;
- The eviction or other removal of a tenant from a unit;
- Alleged breaches of fiduciary duty by one or more directors; or
- Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

Recall and election disputes in condominium, cooperative, and homeowners' associations are not eligible for pre-suit mediation and must be arbitrated by the Division or filed directly with a court of competent jurisdiction.[78]

Arbitration is binding on the parties if all parties in arbitration agree to be bound in a writing filed in the arbitration,[79] or if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days after the arbitration decision is rendered.[80]

[72] Ss. 718.501(1)(c) and 719.501(1)(c), F.S.
[73] S. 718.1255, 719.1255, and 719.106(1)(f), F.S.
[74] S. 718.1255(3)(b), F.S., providing legislative findings regarding the advantages of pre-suit alternative dispute resolution.
[75] S. 718.1255(1)(a), F.S., defining the term "dispute."
[76] *Id*.
[77] *Id*.
[78] S. 718.1255(5), F.S.
[79] S. 718.1255(4)(a), F.S.
[80] S. 718.1255(4)(k), F.S.

The filing fee for a petition to the Division to initiate nonbinding arbitration or pre-suit mediation is $50.[81] The division employs full-time arbitrators and may certify private attorneys to conduct mandatory nonbinding arbitration.

Current law also encourages parties to a condominium dispute to participate in voluntary mediation through a Citizen Dispute Settlement Center.[82]

The mediation of disputes in condominium and cooperative associations is regulated under s. 720.311, F.S., which also provides for the mediation of the certain homeowners' association disputes. An aggrieved party in a dispute must initiate the mediation proceedings by serving a written petition for mediation to the opposing party. The petition must identify the specific nature of the dispute and the basis for the alleged violations. The written offer must include five certified mediators that the aggrieved party believes to be neutral. The serving of the petition tolls the statute of limitations for the dispute. If emergency relief is required, a temporary injunction may be sought in court before the mediation.[83]

The opposing party has 20 days to respond to the petition. If the opposing party fails to respond or refuses to mediate, the aggrieved party may proceed to civil court. If the parties agree to mediation, the mediator must hold the mediation within 90 days after the petition is sent to the opposing parties. The parties share the costs of mediation except for the cost of attorney's fees. Mediation is confidential, and persons who are not parties to the dispute (other than attorneys or a designated representative for the association) may not attend the mediation conference.[84]

The bylaws for condominium and cooperative associations must provide for mandatory dispute resolution.[85]

Enforcement – Effect of the Bill

The bill redefines the term "dispute" to permit unit owners in condominium and cooperative associations to utilize the mediation process in s. 720.311, F.S., related to disputes in homeowners' associations.

Under the bill, condominium and cooperative unit owners may use the mediation process for disputes related to failure of a board of administration to:

- Obtain a milestone inspection.
- Obtain a structural integrity reserve study.
- Fund reserve accounts as required for a SIRS item.
- Make or provide necessary maintenance or repairs of the condominium property as recommended by a milestone inspection or a structural integrity reserve study.

The bill provides the following avenues for injunctive relief:

- A unit owner may institute an action in a court of competent jurisdiction in which the condominium is located to seek injunctive relief against the association to:
  - Enforce compliance with milestone inspection requirements and structural integrity reserve study requirements.
  - Prevent irreparable injury to unit owners and the association and to protect human health, safety, and welfare caused or threatened by any violation of the milestone inspection requirements and structural integrity reserve study requirements.
- The Division may, in the name of the state, seek injunctive relief in any court of competent jurisdiction in which the condominium or cooperative is located to obtain relief against the association to enforce compliance with milestone inspection requirements. This relief is in addition to, and not in lieu of, any other available penalty or remedy.

[81] S. 718.1255(4)(a), F.S.
[82] S. 718.1255(2), F.S.
[83] *Id*.
[84] S. 720.311(2)(b), F.S.
[85] Ss. 718.112(2)(k) and 719.106(1)(l), F.S., relating to condominium and cooperative associations, respectively.

- Any local authority having jurisdiction to enforce milestone inspection requirements may seek injunctive relief from any court of competent jurisdiction in which the condominium or cooperative is located against the association to enforce compliance with milestone inspection requirements, upon an affidavit of the local authority having jurisdiction specifying the manner in which the condominium does not conform to such requirements.

The bill makes clarifying, cross-reference, and conforming changes.

The bill has an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 468.4334, F.S.; relating to community association managers.
Section 2: Amends s. 553.899, F.S.; relating to milestone inspections.
Section 3: Amends s. 718.103, F.S.; relating to the definition of structural integrity reserve study.
Section 4: Amends s. 718.112, F.S.; relating to requirements of a structural integrity reserve study.
Section 5: Amends s. 718.1255, F.S.; relating to alternative dispute resolution at the Division.
Section 6: Amends s. 718.13, F.S.; relating to injunctive relief.
Section 7: Amends s. 718.301, F.S.; making conforming changes.
Section 8: Amends s. 718.503, F.S.; relating to provisions and disclosures in sales contracts.
Section 9: Amends s. 719.103, F.S.; relating to the definition of structural integrity reserve study.
Section 10: Amends s. 719.106, F.S.; relating to requirements of a structural integrity reserve study.
Section 11: Amends s. 719.132, F.S.; relating to injunctive relief.
Section 12: Amends s. 719.301, F.S.; making conforming changes.
Section 13: Amends s. 719.503, F.S.; relating to provisions and disclosures in sales contracts.
Section 14: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DBPR may incur increased expenditures related to creating a uniform inspection form and possible increased complaints related to milestone inspection and SIRS requirements. The impact is currently indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Condominium and cooperative associations and unit owners in those communities may incur expenses related to the required conduct of a milestone inspection and reserve study. However, the associations and unit owners may benefit from the long-term financial planning benefits of a reserve study and from the maintenance or repair of association property.

Providers of reserve studies and architects, engineers, general contractors, building officials, and inspectors who offer milestone inspections and SIRS may benefit from additional business due to the required milestone inspections and reserve studies.

D. FISCAL COMMENTS:

Fannie Mae[86] and the Federal Housing Administration[87] have altered their requirements for loans secured by condominiums and cooperatives in response to the Champlain Towers collapse, including requiring:

- The association to have assessments sufficient to fund any repairs; and
- That at least 10 percent of the association's assessments are dedicated to budget reserves.

Fannie Mae also provides that condominiums and cooperatives with significant deferred maintenance or that have received a directive from a regulatory authority or inspection agency to make repairs due to unsafe conditions are not eligible for purchase until the repairs are made.[88]

Although the underwriting standard was adopted before the Champlain Towers South collapse, Freddie Mac also requires that at least 10 percent of a condominium association's assessments dedicated to budget reserves.[89]

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the Building Commission to create a uniform inspection form which may be used statewide for milestone inspection and SIRS reporting requirements. There is adequate rulemaking authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[86] Fannie Mae, Lender Letter (LL-20221-14), Oct. 12, 2021, available at: https://singlefamily.fanniemae.com/media/29411/display (last visited Mar. 19, 2023).
[87] Freddie Mac, *Handbook 4000.1, FHA Single Family Housing Policy Handbook, Condominium Project Approval*, sec. II.C.2.vi., p. 530, available at: https://www.hud.gov/sites/dfiles/OCHCO/documents/4000.1hsgh-102021.pdf (last visited Mar. 19, 2023).
[88] Fannie Mae, s*upra* note 86..
[89] Freddie Mac, Established Condominium Projects, Effective June 1, 2022, available at: https://guide.freddiemac.com/app/guide/section/5701.5 (last visited Mar. 19, 2023).

A bill to be entitled

An act relating to the management and safety of condominium and cooperative buildings; amending s. 468.4334, F.S.; revising professional practice standards for community association managers and community association management firms; amending s. 553.899, F.S.; revising legislative findings; revising definitions; requiring condominium associations and cooperative associations to have milestone inspections performed on certain buildings after they reach 25 years of age; removing provisions relating to certain buildings located near coastlines; revising the date on which a building's certificate of occupancy was issued to trigger the requirement of a milestone inspection; authorizing an extension of the deadline for the completion of a milestone inspection under certain circumstances; requiring certain notice be given to unit owners within a specified time period; authorizing additional persons to conduct phase one inspections; specifying the only persons authorized to conduct phase two inspections; requiring certain associations to enter into contracts with certain persons within a specified timeframe; requiring that a phase two inspection begin within a specified timeframe; requiring certain inspection reports to

bear certain attestations; authorizing the governing body of a municipality to adopt certain ordinances; removing a specified review by the Florida Building Commission; removing the requirement that the commission submit a certain report to the Governor and Legislature by a specified date; requiring the commission to create standardized milestone inspection forms; authorizing local enforcement agencies to develop their own forms and requirements; conforming provisions to changes made by the act; amending ss. 718.103 and 719.103, F.S.; revising the definition of "structural integrity reserve study"; amending ss. 718.112 and 719.106, F.S.; requiring certain items that will require maintenance, repair, or replacement within a certain timeframe to be included in reserve accounts; removing a date by which certain structural integrity reserve studies must be completed; providing an exception to the requirement of a structural integrity reserve study; requiring certain associations' budgets to include reserves, in an amount determined by a specified study, for certain items; requiring the structural integrity reserve study to include exterior doors; authorizing certain inspections to be used in place of other inspections under certain circumstances; requiring that the

inspector-prepared summary of the inspection report be provided to certain persons within a specified time period; conforming provisions to changes made by the act; amending s. 718.1255, F.S.; revising the definition of a "dispute" for purposes of alternative dispute resolution; requiring certain disputes to be submitted to presuit mediation; creating ss. 718.13 and 719.132, F.S.; authorizing unit owners and certain entities to file an action in court for certain injunctive relief; amending ss. 718.301 and 719.301, F.S.; conforming provisions to changes made by the act; amending ss. 718.503 and 719.503, F.S.; requiring that certain provisions be included in certain contracts entered into after specified dates under certain circumstances; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Paragraph (b) of subsection (1) of section 468.4334, Florida Statutes, is amended to read:

468.4334 Professional practice standards; liability.—

(1)

(b) If a community association manager or a community association management firm has a contract with a community

association that ~~has a building on the association's property that~~ is subject to s. 553.899, the community association manager or the community association management firm must comply with that section as directed by the board.

Section 2. Subsection (13) of section 553.899, Florida Statutes, is renumbered as subsection (12), subsections (1) through (8) and (11) and present subsection (12) are amended, and a new subsection (13) is added to that section, to read:

553.899 Mandatory structural inspections for condominium and cooperative buildings.—

(1) The Legislature finds that maintaining the structural integrity of a building throughout the ~~its service~~ life of the building is of paramount importance in order to ensure that buildings are structurally sound so as to not pose a threat to the public health, safety, or welfare. As such, the Legislature finds that the imposition of a statewide structural inspection program for aging condominium and cooperative buildings in this state is necessary to ensure that such buildings are safe for continued use.

(2) As used in this section, the terms:

(a) "Milestone inspection" means a structural inspection of a building, including an inspection of load-bearing elements ~~walls~~ and the primary structural members and primary structural systems as those terms are defined in s. 627.706. Phase one of the milestone inspection must be performed~~,~~ by a general

contractor licensed under chapter 489 with at least 5 years' experience building or constructing threshold buildings, a building code administrator or building code inspector licensed under part XII of chapter 468 with at least 5 years' experience inspecting threshold buildings, or by a licensed architect or engineer authorized to practice in this state. Phase two of the milestone inspection must be performed by a licensed architect or engineer authorized to practice in this state. Such structural inspection must be completed with the purpose ~~for the purposes~~ of attesting to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair, or replacement of any structural component of the building. The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the firesafety code.

(b) "Substantial structural deterioration" means substantial structural distress or a substantial structural weakness that negatively affects a building's general structural condition and integrity. The term does not include surface imperfections such as cracks, distortion, sagging, deflections, misalignment, signs of leakage, or peeling of finishes unless

the licensed general contractor, building code administrator, building code inspector, engineer, or architect performing the phase one or phase two inspection determines that such surface imperfections are a sign of substantial structural deterioration.

(3) A condominium association under chapter 718 and a cooperative association under chapter 719 must have a milestone inspection performed for each building that is three stories or more in height by December 31 of the year in which the building reaches 25 ~~30~~ years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter. ~~If the building is located within 3 miles of a coastline as defined in s. 376.031, the condominium association or cooperative association must have a milestone inspection performed by December 31 of the year in which the building reaches 25 years of age, based on the date the certificate of occupancy for the building was issued, and every 10 years thereafter.~~ The condominium association or cooperative association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of this section. The condominium association or cooperative association is responsible for all costs associated with the inspection. This subsection does not apply to associations that only include ~~a~~ single-family, two-family, or three-family dwellings ~~dwelling~~ with three or fewer habitable

stories above ground.

(4) If a milestone inspection is required under this section and the building's certificate of occupancy was issued on or before December 31, 1994 ~~July 1, 1992~~, the building's initial milestone inspection must be performed before December 31, 2024. If a milestone inspection is required under this section and the building's certificate of occupancy was issued during the period of January 1, 1995, through December 31, 2000, the building's initial milestone inspection must be performed before December 31, 2026. The local enforcement agency may extend the deadline for a building's initial milestone inspection upon a showing of good cause by the condominium or cooperative association that the association has entered into a contract for the performance of the milestone inspection but that the inspection cannot reasonably be completed before the deadline. If the date of issuance for the certificate of occupancy is not available, the date of issuance of the building's certificate of occupancy shall be the date of occupancy evidenced in any record of the local building official.

(5) Upon determining that a building must have a milestone inspection, the local enforcement agency must provide written notice of such required inspection to the condominium association or cooperative association by certified mail, return receipt requested. The condominium or cooperative association

must notify the unit owners of the required milestone inspection within 14 days after receipt of the written notice from the local enforcement agency and provide the date that the milestone inspection must be completed.

(6) Within 180 days after receiving the written notice under subsection (5), the condominium association or cooperative association must complete phase one of the milestone inspection. For purposes of this section, completion of phase one of the milestone inspection means the licensed general contractor, building code administrator, building code inspector, engineer, or architect who performed the phase one inspection submitted the inspection report by e-mail, United States Postal Service, or commercial delivery service to the local enforcement agency.

(7) A milestone inspection consists of two phases:

(a) For phase one of the milestone inspection, a general contractor licensed under chapter 489 with at least 5 years' experience building or constructing threshold buildings, a building code administrator or building code inspector licensed under part XII of chapter 468 with at least 5 years' experience inspecting threshold buildings, or a licensed architect or engineer authorized to practice in this state shall perform a visual examination of habitable and nonhabitable areas of a building, including the major structural components of a building, and provide a qualitative assessment of the structural conditions of the building. If the general contractor, building

code administrator, building code inspector, architect, or engineer finds no signs of substantial structural deterioration to any building components under visual examination, phase two of the inspection, as provided in paragraph (b), is not required. A general contractor, a building code administrator, a building code inspector, an architect, or an engineer who completes a phase one milestone inspection shall prepare and submit an inspection report pursuant to subsection (8).

(b) A phase two of the milestone inspection must be performed if any substantial structural deterioration is identified during phase one. Only a licensed architect or engineer authorized to practice in this state may perform a phase two milestone inspection. If a phase two inspection is required, the association must contract, within 90 days after receipt of the phase one inspection report, with a licensed architect or engineer to perform the phase two inspection. The licensed architect or engineer contracted with to perform the inspection must begin the phase two inspection within 90 days after entering into a contract with the association. A phase two inspection may involve destructive or nondestructive testing at the inspector's direction. The inspection may be as extensive or as limited as necessary to fully assess areas of structural distress in order to confirm that the building is structurally sound and safe for its intended use and to recommend a program for fully assessing and repairing distressed and damaged

portions of the building. When determining testing locations, the inspector must give preference to locations that are the least disruptive and most easily repairable while still being representative of the structure. An inspector who completes a phase two milestone inspection shall prepare and submit an inspection report pursuant to subsection (8).

(8) Upon completion of a phase one or phase two milestone inspection, the general contractor, building code administrator, building code inspector, architect, or engineer who performed the inspection must submit a copy, or a sealed copy, if applicable, of the inspection report with a separate summary of, at minimum, the material findings and recommendations in the inspection report to the condominium association or cooperative association, and to the building official of the local government which has jurisdiction. The inspection report must, at a minimum, meet all of the following criteria:

(a)1. Bear an attestation and signature, or electronic signature, of the licensed general contractor, building code administrator, or building code inspector who performed the inspection; or

2. Bear the seal and signature, or the electronic signature, of the licensed engineer or architect who performed the inspection,

indicating that such report complies with the statutory

requirements for the inspection.

(b) Indicate the manner and type of inspection forming the basis for the inspection report.

(c) Identify any substantial structural deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.

(d) State whether unsafe or dangerous conditions, as those terms are defined in the Florida Building Code, were observed.

(e) Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.

(f) Identify and describe any items requiring further inspection.

(11) A board of county commissioners or the governing body of a municipality may adopt an ordinance requiring that a condominium or cooperative association schedule or commence repairs for substantial structural deterioration within a specified timeframe after the local enforcement agency receives a phase two inspection report; however, such repairs must be commenced within 365 days after receiving such report. If an association fails to submit proof to the local enforcement agency that repairs have been scheduled or have commenced for substantial structural deterioration identified in a phase two inspection report within the required timeframe, the local

enforcement agency must review and determine if the building is unsafe for human occupancy.

~~(12) The Florida Building Commission shall review the milestone inspection requirements under this section and make recommendations, if any, to the Legislature to ensure inspections are sufficient to determine the structural integrity of a building. The commission must provide a written report of any recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2022.~~

(13) The Florida Building Commission shall create a standardized milestone inspection report form for the submission of such reports to local enforcement agencies by general contractors, building code administrators, building code inspectors, engineers, and architects. Local enforcement agencies may develop their own forms and requirements and are not required to use the commission's standardized forms.

Section 3. Subsection (25) of section 718.103, Florida Statutes, is amended to read:

718.103 Definitions.—As used in this chapter, the term:

(25) "Structural integrity reserve study" means a study of the reserve funds required for future major repairs and replacement of the common areas based on a visual inspection of the common areas. A structural integrity reserve study may be performed by any person qualified to perform such study.

However, the visual inspection portion of the structural integrity reserve study must be performed by an engineer licensed under chapter 471, a general contractor licensed under chapter 489 with at least 5 years' experience building or constructing threshold buildings as defined in s. 553.71, a building code administrator or building code inspector licensed under part XII of chapter 468 with at least 5 years' experience inspecting threshold buildings as defined in s. 553.71, or an architect licensed under chapter 481. At a minimum, a structural integrity reserve study must identify the common areas being visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of the common areas being visually inspected, and provide a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each common area being visually inspected by the end of the estimated remaining useful life of each common area.

Section 4. Paragraphs (f), (g), and (h) of subsection (2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of estimated revenues and

expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, at a minimum, any applicable expenses listed in s. 718.504(21). The board shall adopt the annual budget at least 14 days before the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted. A multicondominium association must adopt a separate budget of common expenses for each condominium the association operates and must adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted for this maintenance. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they do not need to be listed.

2.a. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, ~~and~~ any other item that has a

deferred maintenance expense or replacement cost that exceeds $10,000, and those items listed in paragraph (g) that will require maintenance, repair, or replacement within the next 25 years. The amount to be reserved for an item is determined by the association's most recent structural integrity reserve study that must be completed as provided in paragraph (g) ~~by December 31, 2024~~. If the amount to be reserved for an item is not in the association's initial or most recent structural integrity reserve study or the association has not completed a structural integrity reserve study, the amount must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the reserve item. However, any item with a remaining useful life greater than 25 years is not required to be included in the study. If an association is required to complete a structural integrity reserve study, the association's budget must maintain reserves, in the amount recommended in the association's most recent structural integrity reserve study, for the items listed in paragraph (g). The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. The members of a unit-owner-controlled association may determine, by a majority vote at a duly called meeting of the association, to provide no reserves or less reserves than required by this subsection. Effective

December 31, 2024, the members of a unit-owner-controlled association may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph (g).

b. Before turnover of control of an association by a developer to unit owners other than a developer under s. 718.301, the developer-controlled association may not vote to waive the reserves or reduce funding of the reserves. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves and no such result is achieved or a quorum is not attained, the reserves included in the budget shall go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Before turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended. Effective December 31, 2024, members of a unit-owner-controlled association may not vote to use reserve funds, or any interest accruing thereon, that are

reserved for items listed in paragraph (g) for any other purpose other than their intended purpose.

4. The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

(g) Structural integrity reserve study.—

1. An association must have a structural integrity reserve study completed at least every 10 years after the condominium's creation for each building on the condominium property that is three stories or higher in height which includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Load-bearing walls or other primary structural members.

c. Floor.

d. Foundation.

e. Fireproofing and fire protection systems.

f. Plumbing.

g. Electrical systems.

h. Waterproofing and exterior painting.

i. Windows and exterior doors.

j. Any other item that has a deferred maintenance expense or replacement cost that exceeds $10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-i., as determined by the licensed engineer, general contractor, building code administrator, building code inspector, or architect performing the visual inspection portion of the structural integrity reserve study.

2. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a structural integrity reserve study completed for each building on the condominium property that is three stories or higher in height.

3. Associations that ~~existing on or before July 1, 2022, which~~ are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the condominium property that is three stories or higher in height. An association that is required to complete a milestone inspection on or before

December 31, 2026, in accordance with s. 553.899, may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

4. If an association fails to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 718.111(1).

5. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

(h) Mandatory milestone inspections.—If an association is required to have a milestone inspection performed pursuant to s. 553.899, the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of s. 553.899. The association is responsible for all costs associated with the inspection. If the officers or directors of an association willfully and knowingly fail to have a milestone inspection performed pursuant to s. 553.899, such failure is a breach of the officers' and directors' fiduciary relationship to the unit owners under s. 718.111(1)(a). Within 60 days after ~~Upon completion of a phase~~

~~one or phase two milestone inspection and~~ receipt of the inspector-prepared summary of the milestone inspection report from any phase one or phase two milestone inspection ~~from the architect or engineer who performed the inspection~~, the association must distribute a copy of the inspector-prepared summary of the inspection report to each unit owner, regardless of the findings or recommendations in the report, by United States mail or personal delivery and by electronic transmission to unit owners who previously consented to receive notice by electronic transmission; must post a copy of the inspector-prepared summary in a conspicuous place on the condominium property; and must publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website. If the visual inspection portion of the structural integrity reserve study required under paragraph (g) was performed within the past 5 years and meets the requirements for a milestone inspection in s. 553.899, such inspection may be used in place of the phase one milestone inspection.

Section 5. Effective July 1, 2027, subsection (5) of section 718.1255, Florida Statutes, is amended, and paragraph (d) is added to subsection (1) of that section, to read:

718.1255 Alternative dispute resolution; mediation; nonbinding arbitration; applicability.—

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

"dispute" means any disagreement between two or more parties that involves:

(d) The failure of a board of administration, when required by this chapter or a governing document of the association, to:

1. Obtain a milestone inspection as required under s. 553.899.

2. Obtain a structural integrity reserve study as required under s. 718.112(2)(g).

3. Fund reserve accounts as required for an item identified in s. 718.112(2)(g).

4. Make or provide necessary maintenance or repairs of the condominium property as recommended by a milestone inspection or a structural integrity reserve study.

"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

(5) PRESUIT MEDIATION.—In lieu of the initiation of

nonbinding arbitration as provided in subsections (1)-(4), a party may submit a dispute to presuit mediation in accordance with s. 720.311, except for:

(a) Disputes listed in paragraph (1)(d) are not subject to nonbinding arbitration under subsection (4) and must be submitted to presuit mediation in accordance with s. 720.311.~~;~~ ~~however,~~

(b) Election and recall disputes are not eligible for mediation and such disputes must be arbitrated by the division or filed in a court of competent jurisdiction.

Section 6. Section 718.13, Florida Statutes, is created to read:

718.13 Injunctive relief.—

(1) A unit owner may institute an action in a court of competent jurisdiction in which the condominium is located to seek injunctive relief against the association to:

(a) Enforce compliance with milestone inspection requirements under s. 553.899 and structural integrity reserve study requirements under s. 718.112(2)(g).

(b) Prevent irreparable injury to unit owners and the association and to protect human health, safety, and welfare caused or threatened by any violation of the milestone inspection requirements under s. 553.899 and structural integrity reserve study requirements under s. 718.112(2)(g).

(2) The division may, in the name of the state, seek

injunctive relief in any court of competent jurisdiction in which the condominium is located to obtain relief against the association to enforce compliance with milestone inspection requirements under s. 553.899. A proceeding commenced under this subsection is in addition to, and not in lieu of, any other penalty or remedy under this chapter.

(3) Any local authority having jurisdiction to enforce milestone inspection requirements may seek injunctive relief from any court of competent jurisdiction in which the condominium is located against the association to enforce compliance with milestone inspection requirements under s. 553.899, upon an affidavit of the local authority having jurisdiction specifying the manner in which the condominium does not conform to the requirements of s. 553.899.

Section 7. Paragraph (p) of subsection (4) of section 718.301, Florida Statutes, is amended to read:

718.301 Transfer of association control; claims of defect by association.—

(4) At the time that unit owners other than the developer elect a majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purposes of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the

unit owners and of the association which is held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each condominium operated by the association:

(p) Notwithstanding when the certificate of occupancy was issued or the height of the building, a milestone inspection report in compliance with s. 553.899 included in the official records, under seal of an architect or engineer or under attestation of a general contractor, building code administrator, or building code inspector authorized to practice in this state indicating that such report complies with the statutory requirements for the inspection, and attesting to required maintenance, condition, useful life, and replacement costs of the following applicable condominium property comprising a turnover inspection report:

1. Roof.

2. Structure, including load-bearing walls and primary structural members and primary structural systems as those terms are defined in s. 627.706.

3. Fireproofing and fire protection systems.

4. Elevators.

5. Heating and cooling systems.

6. Plumbing.

7. Electrical systems.

8. Swimming pool or spa and equipment.

9. Seawalls.

10. Pavement and parking areas.

11. Drainage systems.

12. Painting.

13. Irrigation systems.

14. Waterproofing.

Section 8. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 718.503, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) and paragraph (e) is added to subsection (2) of that section, to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(1) DEVELOPER DISCLOSURE.—

(b) Copies of documents to be furnished to prospective buyer or lessee.—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a residential unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as provided in s. 718.202. The contract may be terminated by written notice from the proposed buyer or lessee delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. The developer may not close for 15 days after the execution of

the agreement and delivery of the documents to the buyer as evidenced by a signed receipt for documents unless the buyer is informed in the 15-day voidability period and agrees to close before the expiration of the 15 days. The developer shall retain in his or her records a separate agreement signed by the buyer as proof of the buyer's agreement to close before the expiration of the voidability period. The developer must retain such proof for a period of 5 years after the date of the closing of the transaction. The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to s. 718.504, or, if not, then copies of the following which are applicable:

1. The question and answer sheet described in s. 718.504, and declaration of condominium, or the proposed declaration if the declaration has not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 718.104.

2. The documents creating the association.

3. The bylaws.

4. The ground lease or other underlying lease of the condominium.

5. The management contract, maintenance contract, and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a service term in excess of 1 year, and any management contracts

that are renewable.

6. The estimated operating budget for the condominium and a schedule of expenses for each type of unit, including fees assessed pursuant to s. 718.113(1) for the maintenance of limited common elements where such costs are shared only by those entitled to use the limited common elements.

7. The lease of recreational and other facilities that will be used only by unit owners of the subject condominium.

8. The lease of recreational and other common facilities that will be used by unit owners in common with unit owners of other condominiums.

9. The form of unit lease if the offer is of a leasehold.

10. Any declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association.

11. If the development is to be built in phases or if the association is to manage more than one condominium, a description of the plan of phase development or the arrangements for the association to manage two or more condominiums.

12. If the condominium is a conversion of existing improvements, the statements and disclosure required by s. 718.616.

13. The form of agreement for sale or lease of units.

14. A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the

recreation and other common areas.

15. A copy of all covenants and restrictions that will affect the use of the property and are not contained in the foregoing.

16. If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the condominium, a copy of any such acceptance or approval acquired by the time of filing with the division under s. 718.502(1), or a statement that such acceptance or approval has not been acquired or received.

17. Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed.

18. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 718.112(2)(h) ~~ss. 553.899 and 718.301(4)(p)~~.

19. A copy of the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

(d) Milestone inspection or structural integrity reserve study.—

1. If the association is required to have a milestone inspection as described in ss. 553.899 and 718.112(2)(h) or a structural integrity reserve study as described in s. 718.112(2)(g), and the association has not completed the

milestone inspection or structural integrity reserve study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is required to have a milestone inspection or a structural integrity reserve study and the association has failed to complete such inspection or study, as applicable.

2. If the association is required to have a milestone inspection as described in ss. 553.899 and 718.112(2)(h) or a structural integrity reserve study as described in s. 718.112(2)(g), and the association has completed such inspection or study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain a copy of the most recent milestone inspection report or structural integrity reserve study, as applicable.

3. If the association is not required to have a milestone inspection as described in ss. 553.899 and 718.112(2)(h) or a structural integrity reserve study as described in s. 718.112(2)(g), each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is not required to have a milestone inspection or a structural integrity reserve study, as applicable.

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by

this chapter must comply with this subsection before the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of all of the following:

1. The declaration of condominium.

2. Articles of incorporation of the association.

3. Bylaws and rules of the association.

4. Financial information required by s. 718.111.

5. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 718.112(2)(h) ~~ss. 553.899 and 718.301(4)(p)~~, if applicable.

6. The association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

7. The document entitled "Frequently Asked Questions and Answers" required by s. 718.504.

(e)1. If the association is required to have a milestone inspection as described in ss. 553.899 and 718.112(2)(h) or a structural integrity reserve study as described in s. 718.112(2)(g), and the association has not completed the milestone inspection or structural integrity reserve study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is required to have a

milestone inspection or a structural integrity reserve study and the association has failed to complete such inspection or study, as applicable.

2. If the association is required to have a milestone inspection as described in ss. 553.899 and 718.112(2)(h) or a structural integrity reserve study as described in s. 718.112(2)(g), and the association has completed such inspection or study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain a copy of the most recent milestone inspection report or structural integrity reserve study, as applicable.

3. If the association is not required to have a milestone inspection as described in ss. 553.899 and 718.112(2)(h) or a structural integrity reserve study as described in s. 718.112(2)(g), each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is not required to have a milestone inspection or a structural integrity reserve study, as applicable.

Section 9. Subsection (24) of section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(24) "Structural integrity reserve study" means a study of the reserve funds required for future major repairs and replacement of the common areas based on a visual inspection of

the common areas. A structural integrity reserve study may be performed by any person qualified to perform such study. However, the visual inspection portion of the structural integrity reserve study must be performed by an engineer licensed under chapter 471, a general contractor licensed under chapter 489 with at least 5 years' experience building or constructing threshold buildings as defined in s. 553.71; a building code administrator or building code inspector licensed under part XII of chapter 468 with at least 5 years' experience inspecting threshold buildings as defined in s. 553.71; or an architect licensed under chapter 481. At a minimum, a structural integrity reserve study must identify the common areas being visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of the common areas being visually inspected, and provide a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each common area being visually inspected by the end of the estimated remaining useful life of each common area.

Section 10. Paragraphs (j), (k), and (l) of subsection (1) of section 719.106, Florida Statutes, are amended to read:

719.106 Bylaws; cooperative ownership.—

(1) MANDATORY PROVISIONS.—The bylaws or other cooperative documents shall provide for the following, and if they do not, they shall be deemed to include the following:

(j) Annual budget.—

1. The proposed annual budget of common expenses must be detailed and must show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 719.504(20). The board of administration shall adopt the annual budget at least 14 days before the start of the association's fiscal year. In the event that the board fails to timely adopt the annual budget a second time, it is deemed a minor violation and the prior year's budget shall continue in effect until a new budget is adopted.

2. In addition to annual operating expenses, the budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts must include, but are not ~~be~~ limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, ~~and~~ for any other items for which the deferred maintenance expense or replacement cost exceeds $10,000, and those items listed in paragraph (k) that will require maintenance, repair, or replacement within the next 25 years. The amount to be reserved for an item is determined by the association's most recent structural integrity reserve study that must be completed as provided in paragraph (k) ~~by December 31, 2024~~. If the amount to be reserved for an item is not in the association's initial or most recent structural integrity reserve study or the association has not completed a structural

integrity reserve study, the amount must be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the reserve item. However, any item with a remaining useful life greater than 25 years is not required to be included in the study. If an association is required to complete a structural integrity reserve study, the association's budget must maintain reserves, in the amount recommended in the association's most recent structural integrity reserve study, for the items listed in paragraph (k). The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. The members of a unit-owner-controlled association may determine, at a duly called meeting of the association, for a fiscal year to provide no reserves or reserves less adequate than required by this subsection. Before turnover of control of an association by a developer to unit owners other than a developer under s. 719.301, the developer-controlled association may not vote to waive the reserves or reduce funding of the reserves. Effective December 31, 2024, a unit-owner-controlled association may not determine to provide no reserves or reserves less adequate than required by this paragraph for items listed in paragraph (k). If a meeting of the unit owners has been called to determine to provide no reserves, or reserves less adequate than required, and such result is not

attained or a quorum is not attained, the reserves as included in the budget shall go into effect.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a vote of the majority of the voting interests, voting in person or by limited proxy at a duly called meeting of the association. Before turnover of control of an association by a developer to unit owners other than the developer under s. 719.301, the developer may not vote to use reserves for purposes other than that for which they were intended. Effective December 31, 2024, members of a unit-owner-controlled association may not vote to use reserve funds, or any interest accruing thereon, that are reserved for items listed in paragraph (k) for purposes other than their intended purpose.

(k) Structural integrity reserve study.—

1. An association must have a structural integrity reserve study completed at least every 10 years for each building on the cooperative property that is three stories or higher in height that includes, at a minimum, a study of the following items as related to the structural integrity and safety of the building:

a. Roof.

b. Load-bearing walls or other primary structural members.

c. Floor.

d. Foundation.

e. Fireproofing and fire protection systems.

f. Plumbing.

g. Electrical systems.

h. Waterproofing and exterior painting.

i. Windows and exterior doors.

j. Any other item that has a deferred maintenance expense or replacement cost that exceeds $10,000 and the failure to replace or maintain such item negatively affects the items listed in sub-subparagraphs a.-i., as determined by the licensed engineer, general contractor, building code administrator, building code inspector, or architect performing the visual inspection portion of the structural integrity reserve study.

2. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a structural integrity reserve study completed for each building on the cooperative property that is three stories or higher in height.

3. Associations that ~~existing on or before July 1, 2022, which~~ are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the cooperative property that is three stories or higher in height. An association that is required to complete a milestone inspection on or before December 31, 2026, in accordance with s. 553.899, may complete the structural integrity reserve study simultaneously with the

milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

4. If an association fails to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 719.104(8).

5. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

(l) Mandatory milestone inspections.—If an association is required to have a milestone inspection performed pursuant to s. 553.899, the association must arrange for the milestone inspection to be performed and is responsible for ensuring compliance with the requirements of s. 553.899. The association is responsible for all costs associated with the inspection. If the officers or directors of an association willfully and knowingly fail to have a milestone inspection performed pursuant to s. 553.899, such failure is a breach of the officers' and directors' fiduciary relationship to the unit owners under s. 719.104(8)(a). Within 60 days after ~~Upon completion of a phase one or phase two milestone inspection and~~ receipt of the inspector-prepared summary of the milestone inspection report

from any phase one or phase two milestone inspection ~~the architect or engineer who performed the inspection~~, the association must distribute a copy of the inspector-prepared summary of the inspection report to each unit owner, regardless of the findings or recommendations in the report, by United States mail or personal delivery and by electronic transmission to unit owners who previously consented to receive notice by electronic transmission; must post a copy of the inspector-prepared summary in a conspicuous place on the cooperative property; and must publish the full report and inspector-prepared summary on the association's website, if the association is required to have a website. If the visual inspection portion of the structural integrity reserve study required under paragraph (k) was performed within the past 5 years and meets the requirements for a milestone inspection in s. 553.899, such inspection may be used in place of the phase one milestone inspection.

Section 11. Section 719.132, Florida Statutes, is created to read:

719.132 Injunctive relief.—

(1) A unit owner may institute an action in a court of competent jurisdiction in which the cooperative is located to seek injunctive relief against the association to:

(a) Enforce compliance with milestone inspection requirements under s. 553.899 and structural integrity reserve

requirements under s. 719.106(1)(k).

(b) Prevent irreparable injury to unit owners and the association and to protect human health, safety, and welfare caused or threatened by any violation of the milestone inspection requirements under s. 553.899 and structural integrity reserve requirements under s. 719.106(1)(k).

(2) The division may, in the name of the state, seek injunctive relief in any court of competent jurisdiction in which the cooperative is located to obtain relief against the association to enforce compliance with milestone inspection requirements under s. 553.899. A proceeding commenced under this subsection is in addition to, and not in lieu of, any other penalty or remedy under this chapter.

(3) Any local authority having jurisdiction to enforce milestone inspection requirements may seek injunctive relief from any court of competent jurisdiction in which the cooperative is located against the association to enforce compliance with milestone inspection requirements under s. 553.899, upon an affidavit of the local authority having jurisdiction specifying the manner in which the cooperative does not conform to the requirements of s. 553.899.

Section 12. Paragraph (p) of subsection (4) of section 719.301, Florida Statutes, is amended to read:

719.301 Transfer of association control.—

(4) When unit owners other than the developer elect a

majority of the members of the board of administration of an association, the developer shall relinquish control of the association, and the unit owners shall accept control. Simultaneously, or for the purpose of paragraph (c) not more than 90 days thereafter, the developer shall deliver to the association, at the developer's expense, all property of the unit owners and of the association held or controlled by the developer, including, but not limited to, the following items, if applicable, as to each cooperative operated by the association:

(p) Notwithstanding when the certificate of occupancy was issued or the height of the building, a milestone inspection report in compliance with s. 553.899 included in the official records, under seal of an architect or engineer or under attestation of a general contractor, building code administrator, or building code inspector authorized to practice in this state indicating that such report complies with the statutory requirements for the inspection, attesting to required maintenance, condition, useful life, and replacement costs of the following applicable cooperative property comprising a turnover inspection report:

1. Roof.

2. Structure, including load-bearing walls and primary structural members and primary structural systems as those terms are defined in s. 627.706.

3. Fireproofing and fire protection systems.

4. Elevators.

5. Heating and cooling systems.

6. Plumbing.

7. Electrical systems.

8. Swimming pool or spa and equipment.

9. Seawalls.

10. Pavement and parking areas.

11. Drainage systems.

12. Painting.

13. Irrigation systems.

14. Waterproofing.

Section 13. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 719.503, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) and paragraph (d) is added to subsection (2) of that section, to read:

719.503 Disclosure prior to sale.—

(1) DEVELOPER DISCLOSURE.—

(b) Copies of documents to be furnished to prospective buyer or lessee.—Until such time as the developer has furnished the documents listed below to a person who has entered into a contract to purchase a unit or lease it for more than 5 years, the contract may be voided by that person, entitling the person to a refund of any deposit together with interest thereon as

provided in s. 719.202. The contract may be terminated by written notice from the proposed buyer or lessee delivered to the developer within 15 days after the buyer or lessee receives all of the documents required by this section. The developer may not close for 15 days after the execution of the agreement and delivery of the documents to the buyer as evidenced by a receipt for documents signed by the buyer unless the buyer is informed in the 15-day voidability period and agrees to close before the expiration of the 15 days. The developer shall retain in his or her records a separate signed agreement as proof of the buyer's agreement to close before the expiration of the voidability period. The developer must retain such proof for a period of 5 years after the date of the closing transaction. The documents to be delivered to the prospective buyer are the prospectus or disclosure statement with all exhibits, if the development is subject to s. 719.504, or, if not, then copies of the following which are applicable:

1. The question and answer sheet described in s. 719.504, and cooperative documents, or the proposed cooperative documents if the documents have not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by s. 719.104.

2. The documents creating the association.

3. The bylaws.

4. The ground lease or other underlying lease of the

cooperative.

5. The management contract, maintenance contract, and other contracts for management of the association and operation of the cooperative and facilities used by the unit owners having a service term in excess of 1 year, and any management contracts that are renewable.

6. The estimated operating budget for the cooperative and a schedule of expenses for each type of unit, including fees assessed to a shareholder who has exclusive use of limited common areas, where such costs are shared only by those entitled to use such limited common areas.

7. The lease of recreational and other facilities that will be used only by unit owners of the subject cooperative.

8. The lease of recreational and other common areas that will be used by unit owners in common with unit owners of other cooperatives.

9. The form of unit lease if the offer is of a leasehold.

10. Any declaration of servitude of properties serving the cooperative but not owned by unit owners or leased to them or the association.

11. If the development is to be built in phases or if the association is to manage more than one cooperative, a description of the plan of phase development or the arrangements for the association to manage two or more cooperatives.

12. If the cooperative is a conversion of existing

improvements, the statements and disclosure required by s. 719.616.

13. The form of agreement for sale or lease of units.

14. A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

15. A copy of all covenants and restrictions that will affect the use of the property and are not contained in the foregoing.

16. If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the cooperative, a copy of any such acceptance or approval acquired by the time of filing with the division pursuant to s. 719.502(1) or a statement that such acceptance or approval has not been acquired or received.

17. Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed.

18. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 719.106(1)(l) ~~ss. 553.899 and 719.301(4)(p)~~, if applicable.

19. A copy of the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

(d) Milestone inspection or structural integrity reserve

study.—

1. If the association is required to have a milestone inspection as described in ss. 553.899 and 719.106(1)(l) or a structural integrity reserve study as described in s. 719.106(1)(k), and the association has not completed the milestone inspection or structural integrity reserve study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is required to have a milestone inspection or a structural integrity reserve study and the association has failed to complete such inspection or study, as applicable.

2. If the association is required to have a milestone inspection as described in ss. 553.899 and 719.106(1)(l) or a structural integrity reserve study as described in s. 719.106(1)(k), and the association has completed such inspection or study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain a copy of the most recent milestone inspection report or structural integrity reserve study, as applicable.

3. If the association is not required to have a milestone inspection as described in ss. 553.899 and 719.106(1)(l) or a structural integrity reserve study as described in s. 719.106(1)(k), each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in

conspicuous type a statement indicating that the association is not required to have a milestone inspection or a structural integrity reserve study, as applicable.

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter must comply with this subsection before the sale of his or her interest in the association. Each prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative is entitled, at the seller's expense, to a current copy of all of the following:

1. The articles of incorporation of the association.

2. The bylaws and rules of the association.

3. A copy of the question and answer sheet as provided in s. 719.504.

4. A copy of the inspector-prepared summary of the milestone inspection report as described in ss. 553.899 and 719.106(1)(l) ~~ss. 553.899 and 719.301(4)(p)~~, if applicable.

5. A copy of the association's most recent structural integrity reserve study or a statement that the association has not completed a structural integrity reserve study.

(d)1. If the association is required to have a milestone inspection as described in ss. 553.899 and 719.106(1)(l) or a structural integrity reserve study as described in s. 719.106(1)(k), and the association has not completed the milestone inspection or structural integrity reserve study, each

contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is required to have a milestone inspection or a structural integrity reserve study and the association has failed to complete such inspection or study, as applicable.

2. If the association is required to have a milestone inspection as described in ss. 553.899 and 719.106(1)(l) or a structural integrity reserve study as described in s. 719.106(1)(k), and the association has completed such inspection or study, each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain a copy of the most recent milestone inspection report or structural integrity reserve study, as applicable.

3. If the association is not required to have a milestone inspection as described in ss. 553.899 and 719.106(1)(l) or a structural integrity reserve study as described in s. 719.106(1)(k), each contract entered into on or after January 1, 2025, for the sale of a residential unit must contain in conspicuous type a statement indicating that the association is not required to have a milestone inspection or a structural integrity reserve study, as applicable.

Section 14. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2023.

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 1395 by Rep. Lopez, V.
Management and Safety of Condominium and Cooperative Buildings

AMENDMENT SUMMARY
March 22, 2023

Amendment 1 by Rep. Lopez, V. (Line 286):

- Makes the use of the Building Commission's uniform milestone inspection report form to be mandatory rather than optional.
- Changes the due date for the Building Commission's form to October 1, 2023, from July 1, 2023.

Amendment 2 by Rep. Lopez, V. (Line 292):

- Clarifies when condominium association unit owners with Citizen's Insurance have to have flood insurance.

Amendment 3 by Rep. Lopez, V. (Line 377):

- Clarifies that only associations required to complete a structural integrity reserve study are required to maintain reserves for items required to be in such study.

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: Regulatory Reform & Economic Development Subcommittee
Representative Lopez, V. offered the following:

Amendment

Remove lines 286-292 and insert:

(13) By October 1, 2023, the Florida Building Commission shall create a standardized milestone inspection report form for the submission of such reports to local enforcement agencies by general contractors, building code administrators, building code inspectors, engineers, and architects. Local enforcement agencies must require that this form be used to submit such reports.

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: Regulatory Reform & Economic Development Subcommittee
Representative Lopez, V. offered the following:

Amendment (with title amendment)

Between lines 292 and 293, insert:

Section 1. Paragraph (aa) of subsection (6) of section 627.351, Florida Statutes, is amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(aa) Except as otherwise provided in this paragraph, the corporation shall require the securing and maintaining of flood insurance as a condition of coverage of a personal lines residential risk. The insured or applicant must execute a form approved by the office affirming that flood insurance is not provided by the corporation and that if flood insurance is not

secured by the applicant or insured from an insurer other than the corporation and in addition to coverage by the corporation, the risk will not be eligible for coverage by the corporation. The corporation may deny coverage of a personal lines residential risk to an applicant or insured who refuses to secure and maintain flood insurance. The requirement to purchase flood insurance shall be implemented as follows:

1. Except as provided in subparagraphs 2. and 3., all personal lines residential policyholders must have flood coverage in place for policies effective on or after:

a. January 1, 2024, for property valued at $600,000 or more.

b. January 1, 2025, for property valued at $500,000 or more.

c. January 1, 2026, for property valued at $400,000 or more.

d. January 1, 2027, for all other personal lines residential property insured by the corporation.

2. All personal lines residential policyholders whose property insured by the corporation is located within the special flood hazard area defined by the Federal Emergency Management Agency must have flood coverage in place:

a. At the time of initial policy issuance for all new personal lines residential policies issued by the corporation on or after April 1, 2023.

b. By the time of the policy renewal for all personal lines residential policies renewing on or after July 1, 2023.

3. Policyholders ~~whose policies issued by the corporation do not provide coverage for the peril of wind~~ are not required to purchase flood insurance as a condition for maintaining their policies issued by ~~with~~ the corporation, if the policyholder's policy issued by the corporation:

a. Does not provide coverage for the peril of wind.

b. Provides coverage under a condominium unit owners or condominium tenant form and the policyholder's unit is covered under a master flood policy issued to someone other than the policyholder.

c. Provides coverage under a condominium unit owners or condominium tenant form and the policyholder resides in a condominium unit with occupiable space that is not less than 40 feet above the grade plane, as defined in the Florida Building Code. A unit located on the fifth floor above the grade plane or higher is deemed to be not less than 40 feet above the grade plane, as defined in the Florida Building Code. A unit owner or a condominium association may submit a certification from an engineer licensed under chapter 471, a surveyor and mapper licensed under chapter 472, or an architect licensed under chapter 481 that details which units in the condominium association are not less than 40 feet above the grade plane, as

defined in the Florida Building Code, and the corporation may rely on such certification.

The flood insurance required under this paragraph must meet, at a minimum, the coverage available from the National Flood Insurance Program or the requirements of subparagraphs s. 627.715(1)(a)1., 2., and 3.

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

Remove line 35 and insert:
provisions to changes made by the act; amending s. 627.351; revising requirements relating to the purchase of flood insurance as a condition for maintaining certain policies issued by the Citizens Property Insurance Corporation; amending ss.

Amendment No. 3

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: Regulatory Reform & Economic Development Subcommittee
Representative Lopez, V. offered the following:

Amendment

Remove line 377 and insert:
association that is required to complete a structural integrity reserve study may not determine to provide no reserves or less

Remove line 399 and insert:
members of a unit-owner-controlled association that is required to complete a structural integrity reserve study may not vote to

Remove line 846 and insert:
unit-owner-controlled association that is required to complete a structural integrity reserve study may not determine to provide

Remove line 863 and insert:

controlled association that is required to complete a structural integrity reserve study may not vote to use reserve funds, or any

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1459 Registration Fees for Malt Beverage Brands and Labels
SPONSOR(S): Yeager
TIED BILLS: **IDEN./SIM. BILLS:** SB 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Thompson	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

In Florida, alcoholic beverages are regulated by the Beverage Law, which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors. The Division of Alcoholic Beverages and Tobacco (ABT) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law, which requires licenses for businesses in the industry and payment of various associated fees and taxes.

Before doing business in Florida, manufacturers, brewers, bottlers, distributors, and importers of malt beverages must register with the ABT the brands or labels under which the malt beverages are to be sold or moved. Current law requires the ABT to charge a $30 fee per brand or label.

The bill:

- Provides that the annual registration fee of $30 for each malt beverage brand and label only applies to a brand or label that is sold to a distributor, not to a brand or label that is kept in-house.
- Specifies that no other annual registration fee for a brand or label is authorized under the provision.

The bill may have an indeterminate negative fiscal impact on state government, and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Beverage Law

In Florida, alcoholic beverages are regulated by the Beverage Law,[1] which regulates and licenses the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[2] The Division of Alcoholic Beverages and Tobacco (ABT) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.[3]

Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a "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. A manufacturer, distributor, or exporter may not be licensed as a vendor to sell directly to consumers.

Generally, Florida has adopted the three-tier system. Exceptions to the three-tier regulatory system permit in-state wineries,[4] breweries,[5] and craft distilleries to be licensed as a vendor and sell directly to consumers under certain circumstances.[6]

Brand and Label Registration Fee

No manufacturer, brewer, bottler, distributor, or importer of malt beverages may sell or offer for sale in Florida, or move or cause to be moved within or into Florida, any malt beverages, without:[7]

- Qualifying to do business in the state and registering its name and the brands or labels under which the malt beverages are to be sold or moved; and
- Furnishing any samples and information as to content, quality, and formula of such malt beverages as the ABT may require.

Each registrant must pay an annual registration fee of $30 for a brand or label.[8]

Effect of Proposed Changes

The bill provides that the annual registration fee of $30 for each malt beverage brand and label only applies to **a brand or label that is sold to a distributor**, not to a brand or label that is kept in-house.

The bill also specifies that no other annual registration fee for a brand or label is authorized under the provision.

B. SECTION DIRECTORY:

Section 1: Amends s. 563.045, F.S., revising requirements for brand and label fees.

[1] S. 561.01(6), F.S., provides that the "The Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[2] *See* s. 561.14, F.S.
[3] S. 561.02, F.S.
[4] *See* s. 561.221(1), F.S.
[5] *See* s. 561.221(2), F.S.
[6] *See* s. 565.03, F.S.
[7] S. 563.045(1), F.S.
[8] S. 563.045(2), F.S.

Section 2: Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill may cause an indeterminate decrease in brand and label fees collected by the ABT.

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 impact on craft brewers and brewpubs, who may pay less in brand and label fees to the ABT.

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 registration fees for malt beverage brands and labels; amending s. 563.045, F.S.; providing that the annual registration fee is required only if labels or brands are sold to a distributor; specifying that no other registration fee is authorized; providing an effective date.

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

Section 1. Subsection (2) of section 563.045, Florida Statutes, is amended to read:

563.045 Brands or labels to be registered; qualification to do business; fee; revocation.—

(2) The ~~each registrant shall pay an~~ annual registration fee for a brand or label sold to a distributor is ~~of~~ $30 ~~for a brand or label~~. No other annual registration fee for a brand or label is authorized under this section. Any registration may be suspended or revoked in the same manner as a beverage license for any violation of the Beverage Law.

Section 2. This act shall take effect July 1, 2023.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1467 City of Kissimmee, Osceola County
SPONSOR(S): Arrington
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	16 Y, 0 N	Burgess	Darden
2) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
3) State Affairs Committee			

SUMMARY ANALYSIS

Florida's Beverage Law limits the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

The bill creates an overlay district in the City of Kissimmee known as the Vine Street Community Redevelopment District. The bill creates an exception to the quota limitation and authorizes DBPR to issue a special alcoholic beverage license to a bona fide restaurant in the Vine Street Community Redevelopment District that meets the following requirements: occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages.

The bill provides that failure of a licensee to meet the required percentage of food and nonalcoholic beverage gross revenue during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify for the license application is ineligible to have any interest in a subsequent license application for a period of 120 days after the date of the final denial of revocation.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue if such special licenses are granted under the exception.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco (Division) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of alcoholic beverages within the state.[1] Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses selling malt beverages or wine. However, statute limits the number of licenses that may be issued under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.[2] This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.[3]

There are several exceptions to the quota license limitation,[4] and businesses that meet the requirements set out in one of the exceptions may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcohol content. A food service establishment may qualify for an exemption if the building has at least 2,500 square feet of service area, is equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 120-day operating period and the first 12-month operating period thereafter.[5]

Alcoholic beverages sold for consumption on premises must be consumed inside the licensed premises.[6] DBPR may approve a temporary expansion of the licensed premises to include a sidewalk or other outdoor area for special events.[7] The business must pay an application fee of $100, stipulate the timeframe for the special event, submit a sketch outlining the expanded premises, and submit written approval from the county or municipality.

Effect of Proposed Changes

The bill creates an overlay district in the City of Kissimmee known as the Vine Street Community Redevelopment District and provides a legal description of the area.

The bill permits DBPR to issue a special alcoholic beverage license to a bona fide restaurant in the Vine Street Community Redevelopment District that meets the following requirements: occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages.

The bill provides that failure of a licensee who is issued a special license to meet the gross revenue requirement during the covered operating period will result in the revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee whose license is revoked, an applicant whose pending application for a permanent license is denied, or any person required to qualify for the special license application is ineligible to have any

[1] S. 561.02, F.S.
[2] S. 561.20(1), F.S.
[3] S. 565.02, F.S.
[4] S. 561.20(2), F.S.
[5] S. 561.20(2)(a)4., F.S. *See* Rule 61A-3.0141, F.A.C.
[6] *See* s. 561.01(11), F.S. (defining "licensed premises" and requiring written approval from the county or municipality to include a sidewalk or any other outside area as part of the licensed premise).
[7] S. 561.01(11), F.S.

interest in a subsequent license application for a period of 120 days after the date of the final denial or revocation.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue if such special licenses are granted under the exception.

B. SECTION DIRECTORY:

Section 1: Creates the Vine Street Community Redevelopment District and provides a property description of the district.

Section 2: Creates an exception to general law, providing space, seating and minimum gross revenues requirements for special alcoholic beverage licenses for restaurants in the Vine Street Community Redevelopment District.

Section 3: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? January 26, 2023

WHERE? *The Osceola News-Gazette*, a twice-weekly newspaper published in Osceola County.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the City of Kissimmee, Osceola County; creating an overlay district; providing a short title; providing boundaries; providing an exception to general law; requiring the Division of Alcohol Beverages and Tobacco of the Department of Business and Professional Regulation to issue special alcohol beverage license to certain restaurant establishments meeting specified space, seating, and minimum gross revenues requirements; providing penalties for any licensee that fails to meet such requirements; prohibiting subsequent licensure application for a specified period; providing an effective date.

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

Section 1. There is created an overlay district in the City of Kissimmee known as the Vine Street Community Redevelopment District, more particularly described as follows:

A parcel of land lying within Sections 13 & 24, Township 25 South, Range 28 East, Sections 14 through 23, Township 25 South, Range 29 East, Osceola County, Florida; all Plat Book and Pages and Official Record

Book and Pages referenced within this legal are all found in the Public Records of Osceola County, Florida; and being more particularly described as follows:

Begin at the Northeast corner of Lot 2, VALENCIA PARK, Plat Book 7, Page 101; thence East, along the Easterly extension of the North line of said Lot 2 to the East Right of Way line of Denn John Lane; thence South along the East Right of Way line of Denn John Lane to the South line of WINDSOR OAKS, Plat Book 8, Page 42; thence departing said East line, run East, along the South line of WINDSOR OAKS and the South Right of Way line of Columbia Avenue, as shown on SPRINGTREE CROSSING, Plat Book 5, Page 25 to the East line of Section 14, Township 25 South, Range 29 East; thence departing said South Right of Way line, run South along said East line to the North Right of Way line of Old Boggy Creek Road; thence departing said East line, run West, along said North Right of Way line, to a point being due North of the West boundary line of the Osceola Memorial Gardens as described in the Warranty Deed recorded in Official Records Book 261, Page 763; thence departing said North Right of Way line, run South, along the West boundary line of said deed and its Southerly extension, to the Southerly Right of Way

line of US Highway 441 and 192; thence Northwesterly, along said Southerly Right of Way line, to a point on the East boundary line of Parcel 1D as described in Warranty Deed recorded in Official Records Book 4401, Page 164, said line, also labeled as Osceola County Property Appraisers Parcel ID as 23-25-29-00U0-0058-0000, thence departing said Southerly Right of Way line, run Southwesterly, along said East boundary line; thence West, along said South, boundary line, to a point on the East line of Osceola County Property Appraisers Parcel ID 23-25-29-00U0-0050-0000; thence South, along said East line, to the South line of the Northeast ¼ of the Northeast ¼ of Section 23, Township 25 South, Range 29 East; thence West, along said South line, said line, also being the South line of NORTHSHORE PLAZA REPLAT, Plat Book 23, Page 121, to a point on the West line of said NORTHSHORE PLAZA REPLAT; thence North, along said West line, to a point on the South line of Lot 5, Block I, KISSIMMEE GARDENS, Plat Book 1, Page 32; thence departing said West line, run West, along said South line, to a point on the West line of said Block I; thence North, along said West line, to a point on the South Right of Way line of U.S. Highway No. 441 and 192, thence West, along said South Right of Way line, to a point on the

East boundary line of a Warranty Deed recorded in Official Records Book 4317, Page 1737 said point also being the West line of Mill Slough Canal; thence departing said South Right of Way line, run Southwesterly, along the West line of Mill Slough along the following Official Records Book 4317, Page 1737; Book 1719, Page 922 and Book 1239, Page 2698, to a point on the East line of MILL CREEK MALL, Plat Book 11, Pages 104-105; thence Southwesterly, along the boundary of said MILL CREEK MALL, to the intersection of the West line of Mill Slough and MILL CREEK MALL, said point also being the Easterly boundary line of a Quit Claim Deed recorded in Official Records Book 943, Page 1452; thence departing said MILL CREEK MALL boundary line, run Southwesterly, along said East boundary line of said deed, to the Government Meander line of Lake Tohopekaliga; thence Northwesterly along said Government Meander line to the West line of Section 23, Township 25 South, Range 29 East; thence North along said West line to the Easterly Right of Way line Oak Street; thence Southwesterly along said Easterly Right of Way line to a point on the East boundary line of a Special Warranty Deed recorded in Official Records Book 3722, Page 995; thence South along said East boundary line to the Government

Meander line; thence Southwesterly along said Government Meander line to the East boundary line of said Special Warranty Deed recorded in Official Records Book 1165, Page 2403; thence North along said East boundary line to the South Right of Way line of Oak Street; thence North to the Southeast corner of Tract C, HERITAGE SQUARE, Plat Book 5, Page 58; thence West along the North Right of Way line of Oak Street to the East Right of Way line of the Central Florida Commuter Rail Transit - SunRail; thence departing said North Right of Way line, run Northerly along said East Right of Way line to the intersection of the North Right of Way line of Vine Street/U.S. Highway No. 441 and 192 with the East Right of Way line said Central Florida Commuter Rail Transit - SunRail; thence departing said East Right of Way line, run Westerly along said North Right of Way line to the West Right of Way line of Central Avenue; thence departing said North Right of Way line, run South, along said West Right of Way line to the North Right of Way line of Oak Street; thence departing said West Right of Way line, run West, along said North Right of Way line to the East Right of Way line of Mann Street; thence departing said North Right of Way line, run Southwesterly to the Northeast corner of Lot 1, Block

A, PALM PARK, Plat Book 1, Page 127, said point also being on the South Right of Way line of Oak Street; thence West, along said South Right of Way line to the West Right of Way line of Dyer Boulevard; thence North, along said West Right of Way line to the South line of Lots 13 & 14, KISSIMMEE EXECUTIVE PARK, Plat Book 2, Page 206; thence departing the West Right of Way line, run West, along said South line to the East Right of Way line of Collins Drive; thence departing said South line, run South, along said East Right of Way line to the North line of T & H HOLDINGS, Plat Book 20, Page 117; thence departing said East Right of Way line, run West, along said North line to the East line of Lot 2, GASPERONI CENTER PHASE 2, Plat Book 13, Page 49; thence South, along said East line to the Southeast corner of said Lot 2; thence departing said East line, run West, along said South line to the West Right of Way line of Armstrong Boulevard; thence departing said South line, run North, along said West Right of Way line to a point on the South line of lands described in Warranty Deed recorded in Official Records Book 5911, Page 426; thence departing said West Right of Way line, run West, along the South line of said Warranty Deed recorded in Official Records Book 5911, Page 426 to the West boundary line of said

lands; thence departing said boundary line, run the following six (6) courses and distances according to the Special Warranty Deed recorded in Official Records Book 2617, Page 962; thence West, along the North line of a parcel of land described in Official Records Book 258, Page 132, a distance of 144.65 feet; thence South, along the North line of a parcel described in Official Records Book 258, Page 132, a distance of 91.00 feet; thence S58°27'55"W, along the North line of a parcel described in Official Records Book 258, Page 132, a distance of 258.12 feet; thence West, along the North line of a parcel described in Official Records Book 258, Page 132, a distance of 115.00 feet; thence S59°02'10"W, along the North line of a parcel described in Official Records Book 258, Page 132, a distance of 174.93 feet; thence West, along the North line of a parcel described in Official Records Book 258, Page 132, a distance of 40.57 feet to the East Right of Way line of Hoagland Boulevard; thence continue West along the Westerly extension of said South line to the West Right of Way line of said Hoagland Boulevard; thence Northerly, along said West Right of Way line to the North Right of Way line McClellan Street; thence departing said West Right of Way line, run West, along the North Right of Way line

of said McClellan Street to the East line of the lands described in Warranty deed recorded in Official Records Book 2987, Page 57; thence departing said North Right of Way line, run North, along said East line to the North line of the North line of the South ½ of the Northwest ¼ of the Northeast ¼ of said Section 19 as described in said Official Records Book 2987, Page 57; thence departing said East line, run West, along said North line to the West line of lands described in Official Records Book 822, Page 2934; thence departing said North line, run South, along said West line to the North line of McClellan Street; thence departing said West line, run West, along the Westerly extension of the North line of McClellan Street to the East line of the Northwest ¼ of aforesaid Section 19; thence departing the North line of said Westerly extension of the North Right of Way line of McClellan Street, run North, along said East line to the South Right of Way line U.S. Highway No. 441 and 192; thence departing said East line, run West, along said South Right of Way line to the West line of the Northeast ¼ of the Northwest ¼ of said Section 19; thence departing said South Right of Way line, run South, along said West line to the North line of PARADISE COVE, Plat Book 16, Page 97; thence

departing said East line, run West, along said North line to the West Right of Way line of Bass Road; thence departing said North line, run North, along said West Right of Way line to the South line of KISSIMMEE CHICK-FIL-A REPLAT, Plat Book 22, Page 46; thence departing said East Right of Way line, run West, along the South line of said Easterly extension and South line of the said KISSIMMEE CHICK-FIL-A REPLAT and the South line of KISSIMMEE WAL-MART #817, Plat Book 9, Page 3 to the Southwest Corner of said KISSIMMEE WAL-MART #817; thence departing said South line, run North, along the West line of said KISSIMMEE WAL-MART #817 to a point on the South Right of Way line of Oren Brown Road; thence departing said West line, run West, along said South Right of Way line to the East Right of Way line of South Roma Way; thence departing said East Right of Way line, run Northwesterly to the West line of MEDIEVAL TIMES, Plat Book 18, Page 22, said point also being the West line of the Southwest ¼ of the Southeast ¼ of Section 13, Township 25 South, Range 28 East, said point also being on the North Right of Way line of Oren Brown Road; thence departing said North Right of Way line, run North, along said West line, to a point on the South line of the North 934.00 feet of the Northwest ¼

of the Southeast ¼ of said Section 13 as referenced in Official Records Book 6100, Page 1632; thence East, along said South line, to a point on the Westerly Right of Way line of U.S. Highway 192-State Road 530; thence Southerly and Easterly, along said Westerly and Southerly Right of Way line to a point being the Southerly extension of the West boundary line as described in Warranty Deed recorded in Official Records Book 1664, Page 842; thence North, along said West boundary line, to the North line of said described lands; thence East, along said North boundary line, to the East line of said described lands; thence South, along said East boundary line, to the South Right of Way line of U.S. Highway 192-State Road 530, said point being a Southerly extension of the East boundary line of said deed; thence departing said East line, run East, along said South Right of Way line to the East line of said Section 13; thence departing said South Right of Way line, run North, along said East line, to a point on the North Right of Way line of U.S Highway 192-State Road 530, said point also being a Westerly extension of the South line of CALOIARO COMMERCE CENTER, Plat Book 22, Page 35; thence departing said East line, run East, along said North Right of Way line and said South line, to a

point on the West line of KISSIMMEE OAKS A REPLAT, Plat Book 9, Page 86; thence departing said North Right of Way line, run thence Northwesterly, along said West line, to a point on the Southerly line of CITRUS ESTATES, Plat Book 4, Page 68; thence Southwesterly, along said Southerly line, to a point on the East Right of Way line of Old State Road 530/Old Vineland Road; thence Northwesterly, along said East Right of Way line, to the Northerly line of said CITRUS ESTATES; thence departing said East Right of Way, run Easterly, along the North line of CITRUS ESTATES, to the East line of Section 13, Township 25 South, Range 28 East; thence North, along said East line, to a point on the North boundary line of a Warranty Deed recorded in Official Records Book 5983, Page 2414; thence the following two (2) courses and distances, as described in said Warranty Deed; thence East, a distance of 218.17 feet; thence S32°34'East, a distance of 401.80 feet to the Northeast corner of Lot 1, KISSIMMEE OAKS A REPLAT, Plat Book 9, Page 86; thence Southeasterly, along the East line of said Lot 1 to a point on the North boundary line of a Special Warranty Deed recorded in Official Records Book 6183, Page 1536; thence N85°25'12"East, along the South line of Yates lands, 789.39 feet to the Westerly line of

Yates Road (as described in Official Records Book 6183, Page 1536); thence departing said Westerly Right of Way line, continue Easterly to the East Right of Way line of Yates Road; thence North, along said East Right of Way line to the North line of the South ½ of the Northwest ¼ of the Southeast ¼ of the Southwest ¼ of Section 18, Township 25 South, Range 29 East, as referenced in Official Records Book 3371, Page 2063; thence departing said East Right of Way line, run East, along said North line to the West line of the Northeast ¼ of the Southeast ¼ of the Southwest ¼ of said Section 18; thence departing said North line, run North, along said West line to the North line of the Northeast ¼ of the Southeast ¼ of the Southwest ¼ of said Section 18; thence departing said West line, run East, along said North line to the West line of Tract B, SHINGLE CREEK PLAZA, Plat Book 7, Page 2; thence departing said North line, run Northerly, along the West line of said Tract B to the Northwest corner of said Tract B; thence departing said West line, run Easterly and Southerly, along the North line Tract B to the East line of Tract B and West line of Lot 3, SHINGLE CREEK PLAZA; thence departing said North Line of Tract B, run South, along said West line of Lot 3 to the South line of said Lot 3; thence departing said

West line, run East, along said South line to the West line of FOXHALL PHASES 1, 2, & 3, according to Official Records Book 710, Page 574 and Official Records Book 754, Page 1102; thence continue East, along said South line of FOXHALL PHASES 1, 2, & 3 to the West Right of Way line of Hoagland Boulevard; thence departing said West Right of Way line, run Northeasterly to the Southwest corner of Lot 10, OSCEOLA SQUARE, Plat Book 4, Page 146, said point also being the intersection of the East Right of Way line of Hoagland Boulevard and the North Right of Way line of Columbia Avenue; thence departing said East Right of Way line, run Easterly, along the North Right of Way line of Columbia Avenue to the West line of CROSS ROADS PLAZA, Plat Book 20, Page 70; thence departing said North Right of Way line, run North, along said West line to the North line of said CROSS ROADS PLAZA; thence departing said West line, run East, along said North line to the East Right of Way line of Thacker Avenue; thence departing said North line, run South, along said East Right of Way line to the North Right of Way line of Columbia Avenue; thence run Easterly, Northerly & Easterly, along said North Right of Way line of Columbia Avenue to a point on the East Right of Way line of Main Street; thence South, along said

East Right of Way line to the North Right of Way line of Columbia Avenue; thence departing said East Right of Way line, run East, along said North Right of Way line to the West Right of Way line of Michigan Avenue; thence departing said West Right of Way line, run Southeasterly to a point on the East Right of Way line of Michigan Avenue, said point also being the Northwest corner of lands described in Official Records Book 257, Page 434; thence departing said East Right of Way line, run East, along the North line of said lands described in Official Records Book 257, Page 434, said North line also being the South line of the North ½ of the Southwest ¼ of Section 14, Township 25 South, Range 29 East; thence continue East, along the South line of the North ½ of the Southwest ¼ of said Section 14 to the Southwest corner of Tract C, PEBBLE CREEK ADDITION, Plat Book 4, Page 178; thence continue East, along the South line of said Tract C to the Southeast corner of said Tract C, said point also being the West line of VALENCIA PARK, Plat Book 7, Page 101; thence run Northerly, along the West boundary line of said VALENCIA PARK to the North line of said VALENCIA PARK; thence departing said West boundary line, run East, along said North line to the Northeast corner of Lot 2, VALENCIA PARK; thence

departing said North line, run Southerly and Easterly along the boundary of said Lot 2 to the Point of Beginning.

Section 2. Notwithstanding s. 561.20(1), Florida Statutes, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation shall issue a special alcoholic beverage license to a bona fide restaurant in the Vine Street Community Redevelopment District described in section 1 that is licensed by the division, occupies at least 1,800 square feet of contiguous space, is equipped to serve meals to at least 80 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 60-day operating period and each 12-month operation period thereafter. Failure of any licensee issued a special license to meet the required percentage of food and nonalcoholic beverage gross revenue during the covered operating period shall result in the revocation of the license or denial of the pending application for a permanent license of a licensee operating with a temporary license. A licensee whose license is revoked, or an applicant whose pending application for a permanent license is denied, or any person required to qualify on the special alcoholic beverage license application, is ineligible to have any interest in a

subsequent license application for such license for a period of 120 days after the date of the final denial or revocation.

Section 3. This act shall take effect upon becoming a law.

HB 1561

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1561 Duval County
SPONSOR(S): Duggan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N	Burgess	Darden
2) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
3) State Affairs Committee			

SUMMARY ANALYSIS

Florida's Beverage Law limits the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses that serve only malt beverages and wine.

The bill adds a special zone in Northeast Jacksonville known as the North Florida Keys Corridor to an existing exception from the Beverage Law for certain zones in Jacksonville. The bill creates an exception to the quota limitation and requires DBPR to issue a special food service license to a bona fide restaurant within these areas that meets the following requirements: occupies at least 1,000 square feet of contiguous space, is equipped to serve meals to at least 50 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages. Such licenses shall be subject to local zoning requirements and to any provision of the alcoholic beverage laws of the state and rules of the division not inconsistent within the bill. The bill provides a similar exemption for an area known as the Downtown Incentive Zone in the City of Jacksonville Beach, with a requirement that a bona fide restaurant located in that area have at least 1,200 square feet of contiguous space.

The bill defines an area known as the Dennis Street Commercial Corridor and provides an exemption to the quota limitation for "event centers" within the area that has an occupancy capacity between 2,100 to 2,900 people, has an overall floor capacity between 22,000 and 35,000 square feet, and derives at least 51 percent of its gross annual income from the sale of event tickets and food and nonalcoholic beverages.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Alcoholic Beverages and Tobacco (Division) within the Department of Business and Professional Regulation (DBPR) is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of alcoholic beverages within the state.[1] Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses selling malt beverages or wine. However, statute limits the number of licenses that may be issued under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three licenses per county that has approved the sale of intoxicating liquors.[2] This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.[3]

There are several exceptions to the quota license limitation,[4] and businesses that meet the requirements set out in one of the exceptions may be issued a special license by DBPR allowing the business to serve any alcoholic beverages regardless of alcohol content. A food service establishment may qualify for an exemption if the building has at least 2,500 square feet of service area, is equipped to serve meals to 150 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages during the first 120-day operating period and the first 12-month operating period thereafter.[5]

Alcoholic beverages sold for consumption on premises must be consumed inside the licensed premises.[6] DBPR may approve a temporary expansion of the licensed premises to include a sidewalk or other outdoor area for special events.[7] The business must pay an application fee of $100, stipulate the timeframe for the special event, submit a sketch outlining the expanded premises, and submit written approval from the county or municipality.

Effect of Proposed Changes

The bill amends ch. 87-471, Laws of Florida,[8] to add three additional areas to the exemption from the quote license limitation: the Dennis Street Commercial Corridor, the Downtown Incentive Zone in the City of Jacksonville Beach, and the North Florida Keys Corridor.

The bill permits DBPR to issue a special food service license to a bona fide restaurant within the North Florida Keys Corridor, that occupies at least 1,000 square feet of contiguous space, is equipped to serve meals to at least 50 persons at one time, and derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages. Licenses issued by DBPR shall be subject to local zoning requirements and to any provision of the alcoholic beverage laws of the state and rules of the division not inconsistent within the bill. The bill creates a similar exemption for the Downtown Incentive Zone in the City of Jacksonville Beach, except that it requires the bona fide restaurant to have at least 1,200 square feet of contiguous space.

[1] S. 561.02, F.S.
[2] S. 561.20(1), F.S.
[3] S. 565.02, F.S.
[4] S. 561.20(2), F.S.
[5] S. 561.20(2)(a)4., F.S. *See* Rule 61A-3.0141, F.A.C.
[6] *See* s. 561.01(11), F.S. (defining "licensed premises" and requiring written approval from the county or municipality to include a sidewalk or any other outside area as part of the licensed premise).
[7] S. 561.01(11), F.S.
[8] As amended by chs. 2011-255, 2016-248, 2017-213, and 2022-259, Laws of Fla.

The bill permits DBPR to issue a special alcoholic beverage license to event centers located in the Dennis Street Commercial Corridor.[9] A qualifying event center must have an occupant capacity between 2,100 and 2,900 people, an overall floor capacity between 22,000 and 35,000 square feet, and derive at least 51 percent of annual gross income from the sale of event center tickets and food and nonalcoholic beverages.

According to the Economic Impact Statement, the bill is revenue positive due to the increase in sales tax revenue and licensing revenue if such special licenses are granted under the exception.

B. SECTION DIRECTORY:

Section 1: Amends ch. 87-471, Laws of Fla., as amended, creating and adding Dennis Street Commercial Corridor into the special zones located in downtown Jacksonville, and a special zone in Northeast Jacksonville known as the North Florida Keys Corridor; provides a property description. Creates an exception to general law, providing space, seating and minimum gross revenues requirements for special alcoholic beverage licenses for restaurants within Dennis Street Commercial Corridor, and the North Florida Keys Commercial Corridor.

Section 2: Amends ch. 87-471, Laws of Fla., as amended, creating and adding the Downtown Incentive Zone in the City of Jacksonville Beach; provides a property description. Creates an exception to general law, providing space, seating and minimum gross revenues requirements for special alcoholic beverage licenses for restaurants within the Downtown Incentive Zone.

Section 3: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? February 2, 2023 and February 4, 2023

WHERE? *Jacksonville Daily Record*, a weekly newspaper published in Duval County, Florida and The *Florida Times-Union*, a daily newspaper published in Duval County, Florida, respectively.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

[9] The bill defines an "event center" as "a facility that routinely hosts events for which entrance is by customers who have purchased tickets, including, but not limited to, musical concerts and art shows, hosts events sponsored or organized by nonprofit organizations, and otherwise does not market itself primarily as a food service establishment."

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to Duval County; amending chapter 87-471, Laws of Florida, as amended; adding special zones in the City of Jacksonville; providing exceptions for space and seating requirements for liquor licenses for restaurants and event centers in the zones; creating a special zone in the City of Jacksonville Beach; providing exceptions for space and seating requirements for liquor licenses for restaurants in the zone; providing an effective date.

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

Section 1. Chapter 87-471, Laws of Florida, as amended by chapter 2022-259, Laws of Florida, is amended to read:

Section 1. There are created special zones in downtown Jacksonville covering the following described areas known as Northside West, Northside East, Southbank, Riverside Avondale Urban Transition Area, Riverside Avondale Commercial Character Areas, Murray Hill Commercial Area, Springfield Commercial Area, San Marco Transportation Corridor, ~~and~~ Kings Avenue Commercial Corridor, and Dennis Street Commercial Corridor, and a special zone in Northeast Jacksonville known as the North Florida Keys Corridor, for the purposes of this act. The areas are described as:

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

(1) The Northside West area is that part of the City of Jacksonville, Duval County, Florida described as:

Begin at the point of intersection of the West right-of-way line of Main Street, State Road No. 5, with the South right-of-way line of West Bay Street; thence, Westerly along said South right-of-way line of West Bay Street to a line being a Southerly prolongation of the West right-of-way line of Julia Street; thence Northerly along said line and said West right-of-way line of Julia Street to the South right-of-way line of Forsyth Street; thence Westerly along said South right-of-way line of Forsyth Street to the West right-of-way line of Pearl Street; thence Northerly along said West right-of-way line of Pearl Street to the North right-of-way line of State Street; thence Westerly and Northwesterly along said North right-of-way line of State Street to the Northwesterly right-of-way of Interstate 95 and State Road No. 9; thence Southwesterly along said Northwesterly and Westerly right-of-way line to an intersection with a line being a Westerly prolongation of the Northeasterly right-of-way line of that portion of Interstate 95 leading to and from the Fuller Warren Bridge over the St. Johns River; thence Southeasterly along said line and

Northeasterly right-of-way line to the center line of the St. Johns River; thence Northeasterly and Easterly along said center line to the West right-of-way line of the John T. Alsop (Main Street) Bridge; thence Northerly along said West right-of-way line of the John T. Alsop (Main Street) Bridge to the Point of Beginning.

(2) The Northside East area is that part of the City of Jacksonville, Duval County, Florida described as:

Begin on the west, Pearl Street extending from State on the north to Forsyth Street on the south and Julia Street from Forsyth on the north to Bay Street on the south, and Main Street beginning at Bay Street on the north and extending south to the St. Johns River. The northern boundary is State Street, beginning at Pearl Street, and extends eastward to Liberty Street at which point the boundary extends eastward along the Jacksonville Expressway to a point where the Jacksonville Expressway intersects with the Haines Street Expressway. Then north along the Haines Street Expressway to Marshall Street, and then eastward along Marshall Street to Talleyrand Avenue. North along Talleyrand Avenue to Fairway Street, and then eastward along Fairway Street to the St. Johns River. The eastern and southern boundaries are the St. Johns

River, beginning at Fairway Street and extending southward to a point beyond the Hart Bridge, then westward to Main Street at a point running north to Bay Street and then west along Bay Street to Julia Street, then north along Julia Street to Forsyth Street, then extending west to Pearl Street.

(3) The Southbank area is that part of the City of Jacksonville, Duval County, Florida described as:

Begin at the point of intersection of the North right-of-way line of Gulf Life Drive with the West right-of-way line of South Main Street, State Road No. 5; thence westerly along said North right-of-way line of Gulf Life Drive to the Northeasterly right-of-way line of that portion of the Jacksonville Expressway leading to and from the Acosta Bridge over the St. Johns River; thence Southeasterly along said Northeasterly right-of-way line to an intersection with a Northeasterly prolongation of a line lying 60 feet Southeasterly from, when measured at right angles to, the Southeasterly face of the Prudential Building; thence Southwesterly along said line and a Southwesterly prolongation thereof to an intersection with the South right-of-way line of Prudential Drive;

then Easterly along said South right-of-way line of Prudential Drive to an intersection with a Northeasterly prolongation of the Westerly edge of the Easternmost Baptist Medical Center driveway; thence Southwesterly along said line and Westerly edge of driveway and Southwesterly prolongation thereof to an intersection with the Northerly right-of-way line of Interstate 95, State Road No. 9; thence Easterly along said Northerly right-of-way line to a point of intersection with the Southwesterly edge of the Southbound roadway of South Main Street; thence Northeasterly along a line drawn straight from the last described point to the Northwesterly corner of Lot 18, Block 1, Bostwick's Subdivision of Block 46 in South Jacksonville, as shown on plat recorded in Plat Book 3, Page 68 of the Current Public Records of said County, said Northwest corner being located in the Northeasterly right-of-way line of the Northbound approach to said South Main Street from said Interstate 95; thence Southeasterly and Easterly along said Northeasterly right-of-way line and Northerly right-of-way line of Interstate 95 to an intersection with the Southeasterly right-of-way line of Vine Street; thence Northeasterly along said Southeasterly right-of-way line of Vine Street to the Northeasterly

line of that certain alley running Southeasterly through Block 17, Reeds Fourth Subdivision of South Jacksonville, as shown on plat recorded in Plat Book 1, Page 46 of the former public records of said County; thence Southeasterly along said Northeasterly alley line to an intersection with the Northwesterly right-of-way line of Alamo Street; thence Northeasterly along said Northwesterly right-of-way line of Alamo Street and a Northeasterly prolongation thereof to an intersection with the mean high water line of the St. Johns River; thence Northwesterly along said mean high water line to an intersection with a line being a Northerly prolongation of the West face of the Gulf Life Insurance Company's parking garage; thence Southerly along said line, said West garage face, and a Southerly prolongation thereof to an intersection with the North right-of-way line of Gulf Life Drive; thence Westerly along said North right-of-way line to the Northerly prolongation of the Easterly right-of-way line of Flagler Avenue; thence Northerly along said prolongation of the Easterly right-of-way line of Flagler Avenue to an intersection with a line being the Easterly prolongation of the South face of the multistory Hilton Hotel building; thence Westerly along said line, the said South face

of the Hilton Hotel to the Westerly right-of-way line of South Main Street; thence Southerly along said Westerly right-of-way line of South Main Street to the Point of Beginning.

(4) The Riverside Avondale Urban Transition Area is that part of the Riverside Avondale Historic District of the City of Jacksonville, Duval County, Florida described as:

The area bound by Margaret Street to the west, Dellwood Avenue and Interstate 95 to the north and northeast, and the St. Johns River to the east and south.

(5) The Riverside Avondale Commercial Character Areas are those parts of the Riverside/Avondale Historic District of the City of Jacksonville, Duval County, Florida described as:

Riverside Avondale Commercial Character Area #1: Lot 22, Arden, according to the plat thereof as recorded in Plat Book 5 Page 89 of the Current Public Records of Duval County, Florida. Block 22, Lots 3, 4, 5, and 6 Block 16, Fishweir Park, according to the plat there of as recorded in Plat Book 3 Page 84 of the Current Public Records of Duval County, Florida. A part of the George Atkinson Grant, Section 58, Township 2 South, Range 26 East Duval County, Florida as recorded in

Official Records: Book 10027 Page 872, Book 8723 Page 91, Book 14566 Page 1943, Book 8234 Page 171, Book 17088 Page 1988, Book 3153 Page 846, and Book 8558 Page 222

Riverside Avondale Commercial Character Area #2: Lots 10, 11, and 12 Block 104, Lots 7, 8, and 9 Block 121, Riverside Heights, according to the plat thereof as recorded in Plat Book 2 Page 61 of the Current Public Records of Duval County, Florida. Lots 1, 2, 3, and 4 of BJ Skinner's Subdivision of Block 3 of Diterich's Subdivision of part of the Hutchinson Grant according to the plat thereof as recorded in Plat Book 8 Page 14 of the Current Public Records of Duval County, Florida. Lots 7, 8 ,9, 10, 11, and 12 Block 2, Lots 6, 7, 8, 9, and 10 Block 1, St Johns Heights, according to the plat thereof as recorded in Plat Book 3 Page 22 of the Current Public Records of Duval County, Florida. Lots 1, 2, 3, 10, 11, and 12 Block 1 Diterich's Subdivision of Lot 4 of the Hutchinson Grant, Northwestern 65 feet of Lots 1 and 2, all of Lot 3 Diterich's Replat of Lot 1 Block 8, Edgewood, according to the plat thereof as recorded in Plat Book 2 Page 86 of the Current Public records of Duval County, Florida. Lots 130, 131, and 132, Avondale, according to the plat thereof as recorded in Plat Book

7 Page 31 of the Current Public Records of Duval County, Florida.

Riverside Avondale Commercial Character Area #3: Lot 1 (Except any portion taken by the City of Jacksonville for right of way purposes) Block A, North Riverside Heights, according to the plat thereof as recorded in Plat Book 2 Page 99 of the Current Public Records of Duval County, Florida. Lots 4 and 5 Block 13, Lots 1, 2, 3, 4, 5, the North 1/2 of a closed alley lying Southeasterly of said lots, and Lot 6 Block 14, Lots 1 and 2 Block 15, Lots 1, 36, 37, and 38 Block 16, St Johns Heights, according to the plat thereof as recorded in Plat Book 3 Page 22 of the Current Public Records of Duval County, Florida. Lots 7, 8, and 9 Block 49, Riverside Heights, according to the plat thereof as recorded in Plat Book 2 Page 61 of the Current Public Records of Duval County, Florida. A portion of Eloise St closed and vacated by Ordinance No. BB-153 of the City of Jacksonville, Florida.

Riverside Avondale Commercial Character Area #4: Lots 2, 3, 6, and part of Lot 7 recorded in Official Record Book 9501 Page 290 Block 16. Lots 1, 4, 5, and part of Lot 8 recorded in Official Record Book 9501 Page 292 Block 17, Ingleside Park, according to the plat thereof as recorded in Plat Book 2 Page 77 of the

current Public Records of Duval County, Florida. Lots 9, 10, 11, 12, 13, 14, and 15 Block 3. Lots 6, 7 (except part in right of way), 8, 9, 10, 11, 12, 13, 14, and 15 Block 6. Lots 1, 2, and 3 Block 7, Willow Brook Terrace, according to the plat thereof as recorded in Plat Book 8 Page 36 of the Current Public records of Duval County, Florida.

Riverside Avondale Commercial Character Area #5: Lot 7, Lots 8, 9, 10, and 11 (except parts in right of way) Block 18, Central Addition to Riverside, according to the plat thereof as recorded in Plat Book 6 Page 6 of the Current Public Records of Duval County, Florida. Part of Lot 7 recorded in Official Record Book 14809 Page 692, Lots 8, 9, and 10, Lot 11 and 12 (except parts in right of way), and Lot 13 Block 1. Lot 8 (except part in right of way), Lots 9, 10, 11, 12, 13, 14, 15, and part of Lots 16, 17, and 18 recorded in Official Record Book 15097 Page 1955 Block 2, Riverside Extension, according to the plat thereof as recorded in Plat Book 6 Page 11 of the Current Public Records of Duval County, Florida. Part of Lot 6 recorded in Official Records Book 6934 Page 1451, Lots 7, 8, 9, and 10, Riverside Pines, according to the plat thereof as recorded in Plat Book 17 Page

13 of the Current Public Records of Duval County, Florida.

Riverside Avondale Commercial Character Area #6: Lots 7, 8, 9, 10, 11, and 12 of re-plat of Block 2, Lightbody's Subdivision, according to the plat thereof as recorded in Plat Book 6 Page 1 of the Current Public records of Duval County, Florida. Lots 1, 2, 3, and 4 Block 3, Lightbody's Subdivision, according to the plat thereof as recorded in Plat Book 3 Page 95 of the Current Public records of Duval County, Florida. Lots 12 and 13, Re-plat of Lots 12 & 13 Block 8 Riverside Annex, according to the plat thereof as recorded in Plat Book 9 Page 8 of the Current Public records of Duval County, Florida. Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 25, Shackelton's Subdivision of Block 8 Riverside Annex, according to the plat thereof as recorded in Plat Book 2 Page 67 of the Current Public records of Duval County, Florida. Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, East 15FT Lot 10, West 35FT Lot 11 Block 5. Lots 1, 2, 3, 4, 5, and 6 Block 6, Riverside Annex, according to the plat thereof as recorded in Plat Book 1 Page 106 of the Current Public records of Duval County, Florida. Lots 1, 2, 3, 4, 5, 6, 7, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29, Duval Company's Re-plat of Block 7

Riverside Annex, according to the plat thereof as recorded in Plat Book 2 Page 90 of the Current Public records of Duval County, Florida. That fractional part of Park St located Southeasterly of lots 16 and 17 Duval Company's Re-plat of Block 7 Riverside Annex known as Parcel C recorded in Official Record Book 16195 Page 2011. Closed alley within Plat Book 2 Page 90 closed by City of Jacksonville Ordinance No. 82-314-147. Tracts D and E. Lots 1, 2, 3, 4, 5, and 6 Block 6. Lots 1, 2, 3, and 4 Block 7. Lots 1, 2, 3, 4, 5, 6, 7, and 8 Block 8. Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and closed alley recorded in Official Record Book 11597-1171 Block 9. Lots 18, 19, 20, 21, 22, and 23 Block 12. Lots 14 and part closed street lying South thereof, 15, 16, 17, 18, and 19 Block 13, New Riverside, according to the plat thereof as recorded in Plat Book 3 Page 54 of the Current Public records of Duval County, Florida. Lots 1, 2, and 3, Valz & Yerkes Subdivision, according to the plat thereof as recorded in Plat Book 7 Page 32 of the Current Public records of Duval County, Florida. Parcels of land being part of Government Lot 4 in Section 22, Township 2 South, Range 26 East, Duval County Florida as described in Deed Book 127 Page177, Deed Book 127 Page 178, Official record Book 754

Page176, Official Record Book 1140 Page 279, Official Record Book 2314 Page 133, and Official Record Book 4024 Page 200.

Riverside Avondale Commercial Character Area #7: Lot 6 Block 83, Riverside, according to the plat thereof as recorded in Plat Book 4 Page 6 of the Current Public records of Duval County, Florida. The West 60FT and the North 25FT of the East 10FT of Lot 7 and the North 25FT of the West 1/2 of Lot 6, Block 83, Riverside, according to the plat thereof as recorded in Plat Book 2 Page 24 of the Current Public records of Duval County, Florida. The East 50FT of the common area parcel of the John Gorrie Condominium described in Official record Book 15698 Page 444 of the Current Public Records of Duval County, Florida.

Riverside Avondale Commercial Character Area #8: All of Lots 2 through 8, together with that portion of a 15FT alley (closed by ordinance 2002-393) lying Southerly of said lots 7 and 8. Lots 1, 2, 3, 4, 5, 6, 7, 20, 21, 22 and part of a closed alley lying southerly to Lots 6 and 7 and Easterly to Lots 6, 7, and 22 Block 9. Fractional Lot 1 Block 11. Lots 1, 2, 3, 4, 5 and closed alley lying Easterly of Lots 6 & 26 Block 12 (except any part in right of way), R I CO's addition to Riverside, according to the plat thereof

as recorded in Plat Book 5 Page 47 of the Current Public Records of Duval County, Florida. Part of Lot 4, Riverside, according to the plat thereof as recorded in Plat Book 1 Page 109 of the Current Public Records of Duval County, Florida. West 1/2 Lot 5, fractional Lot 6, and the West 1/2 of Lot 7 Block 102, Riverside, according to the plat thereof as recorded in Plat Book 4 Page 6 of the Current Public Records of Duval County, Florida.
Riverside Avondale Commercial Character Area #9: Lots 1 through 10 Block 51. Lots 1, 2, 3, and part of Lot 4 recorded in Official Record Book 11528 Page 2345 Block 52, Riverside, according to the plat thereof as recorded in Plat Book 1 Page 109 of the Current Public Records of Duval County, Florida. A part of Oak Street North of Block 51, plat of Riverside, as recorded in Official record Book 9853 Page 1080 of the Public Records of Duval County, Florida.

(6) The Murray Hill Commercial Area includes the following properties in the City of Jacksonville, Duval County, Florida:

Lots 9, 11 and 12, RIVERSIDE GARDENS, according to the plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.

Lots 13 and 14, Block 12, RIVERSIDE GARDENS, according to the plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.

Lots 3, 4, 15, 16, 17 and 18, Block 12, RIVERSIDE GARDENS, according to the plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida; also that certain parcel abutting said lots on the north and being formerly part of Gilmore Street more particularly described in Deed Book 16304, Page 981, Public Records of Duval County, Florida; and A parcel of land being a part of Lots 5 and 6, Block 12, RIVERSIDE GARDENS, according to the plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida, together with a part of Gilmore Street as presently closed, said parcel being more particularly described in Deed Book 16304, Page 981, Public Records of Duval County, Florida.

Lot 19 and 20, Block 12, RIVERSIDE GARDENS, according to the plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.

Part of Section 20, Township 2 South, Range 26 East, Duval County, Florida, being more particularly described as follows: commence at the intersection of the northerly line of Lenox Avenue with the westerly line of Edgewood Avenue; thence north 38 degrees, 44

minutes west, along said westerly line of Edgewood Avenue 150 feet to the point of beginning; thence continue north 38 degrees 44 minutes west, along said westerly line of Edgewood Avenue 41.3 feet; thence continue along said westerly line of Edgewood Avenue, north 32 degrees 58 minutes west 165.1 feet to the southerly line of the Jacksonville Expressway; thence south 58 degrees 45 minutes 23 seconds west, along said southerly line of the Jacksonville Expressway 452.11 feet; thence south 9 degrees 00 minutes east, 193.7 feet; thence north 61 degrees 30 minutes east, 537.42 feet to the point of beginning.

Part of Section 20, Township 2 South, Range 26 East, Duval County, Florida, being more particularly described as follows: commence at the intersection of the Westerly line of Edgewood Avenue with the Northerly line of Lenox Avenue; thence South 61 degrees, 30 minutes West, along said Northerly line of Lenox Avenue, 272.5 feet to the point of beginning; thence continue along said Northerly line of Lenox Avenue, South 61 degrees, 30 minutes West, 281.33 feet, more or less, to the Northerly line of Dellwood Avenue; thence South 87 degrees, 44 minutes West, along said Northerly line of Dellwood Avenue, 59.16 feet; thence North 9 degrees, 00 minutes West, along

the Easterly line of the lands shown on Plat Book 7, Page 4, of the Public Records of Duval County, Florida, 128.45 feet; thence North 61 degrees, 30 minutes East, 264.92 feet; thence South 38 degrees, 44 minutes East, 150 feet to the point of beginning.

Part of Section 20, Township 2 South, Range 26 East, Duval County, Florida, described as follows: beginning at the northwest corner of Edgewood Avenue and Lenox Avenue and running westerly a distance of 150 feet along the northerly line of Lenox Avenue for a point of beginning, thence run northerly a distance of 150 feet parallel with Edgewood Avenue to a point; thence run westerly a distance of 80 feet parallel with Lenox Avenue; thence run southerly a distance of 150 feet parallel with Edgewood Avenue to the northerly line of Lenox Avenue, thence run easterly a distance of 80 feet along the northerly line of Lenox Avenue to the point of beginning.

Part of Section 20, Township 2 South, Range 26 East, Duval County, Florida, being more particularly described as: for a point of beginning, commence at the intersection of the southwest right-of-way line of Edgewood Avenue (a 100 foot right-of-way as now established) with the northwest right-of-way line of Lenox Avenue (a 60 foot right-of-way as now

established) thence south 61 degrees 30 minutes 00 seconds west, along the Northwest right of way line of said Lenox Avenue, a distance of 150.00 feet; thence North 38 degrees 44 minutes 00 seconds west departing said northwest right-of-way line, a distance of 150.00 feet; thence north 61 degrees 30 minutes 00 seconds east, parallel with said northwest right-of-way line, a distance of 150.00 feet to an intersection with the aforesaid southwest right-of-way of Edgewood Avenue; thence south 38 degrees 44 minutes 00 seconds east, along said southwest right-of-way line, a distance of 150.00 feet to the point of beginning.

The North 1/2 of Lot 8, Block 13, RIVERSIDE GARDENS, according to plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.

The North 105 feet of Lot 7, Block 13, RIVERSIDE GARDENS, according to plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.

Lot 6, Block 13, RIVERSIDE GARDENS, according to plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.

Lots 1, 2, 3 and 4, Block 13, RIVERSIDE GARDENS, according to plat thereof as recorded in Plat Book 3,

Page 67, Public Records of Duval County, Florida, except part in Official Records Volume 2425, Page 709.
Lot 8, Block 13, RIVERSIDE GARDENS, according to plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.
Lot 7, except the North 105 feet thereof, Block 13, RIVERSIDE GARDENS, according to plat thereof as recorded in Plat Book 3, Page 67, Public Records of Duval County, Florida.
Lots 131, 132 and 133 of Block 79, Replat of Block 80 and part of Blocks 79, 81 and 82, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 67, Public Records of Duval County, Florida.
Section 20, Township 25, Range 26E, Lots 129 and 130, Block 79, Replat of Block 79, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 67, Public Records of Duval County, Florida, except part conveyed to Duval County in Deed Book 1255, Page 47 of said public records.
Lot 128, Block 79, Replat of Block 80 and part of Blocks 79, 81 and 82, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 67, Public Records of Duval County, Florida.
Lots 168 and 169, Block 79, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5,

Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 167, Block 79, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 165 and 166, Block 79, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 141, 163, 164, Block 79, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 161 and 162, Block 78, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 159 and 160, Block 78, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 157 and 158, Block 78, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 156, Block 78, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 153, 154 and 155, Block 78, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 164, Block 78, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida, except the portion described as: beginning at the most Southerly corner of said Lot 164; thence Northerly along the Easterly line of said Lot 164, 24 feet; thence Northwesterly 50.07 feet to a point in the Southwesterly line of said Lot 164, said point being 50 feet as measured along the Southwesterly line of Lot 164, said point being 50 feet as measured along the Southwesterly line of said Lot 164 from the most Westerly corner thereof; thence Southeasterly along the Southwesterly line of said Lot 164, 64.55 feet to the point of beginning and further excepting those lands described in Official Records Book 14963, page 1973, Public Records of Duval County, Florida.

Lot 1, Block 70, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 9, except the Southwesterly 50 feet thereof, and the Northeast 16 feet of the Southwest 110 feet of Lots 10 and 11, and the Southeast 8 feet of the Northeast 34 feet of the Southwest 94 feet of Lot 10, all in Block 67, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 1-8, 12-22 and the Southwest 110 feet of Lots 9, 10 and 11, less and except that part described in Official Records Book 2497, Page 87, all of Block 67, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 1, Block 66, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 5, 6, 7, 8 and a portion of Lot 9, Block 66 as reflected in Deed Book 8169, Page 2307, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 2, Pages 87, Public Records of Duval County, Florida.

A portion of Lots 9, 10 and 11, Block 66, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 2, Pages 87, Public Records of Duval County, Florida, and being more particularly described as follows: begin at the intersection of the Northwesterly right-of-way line of Post Street (formerly Eighteenth Street, a 60 foot right-of-way as now established) with the Southwesterly right-of-way line of Edgewood Avenue (a 100 foot right-of-way as now established); thence north 45 degrees 00 minutes, 00 seconds west, along said Southwesterly right-of-way line, 133.60 feet; thence south 45 degrees 10 minutes 52 seconds west, 85.00 feet to the Northwesterly prolongation of the Northeasterly boundary of those lands described and recorded in Official Records Volume 6952, Page 502 and Official Records Volume 5917, Page 755, all of said current Public Records; thence south 45 degrees, 00 minutes, 00 seconds east, along last said line and along said Northeasterly boundary of those lands described and recorded in said Official Records Volume 6952, Page 502 and said Official Records Volume 5917, Page 755, a distance of 133.89 feet to the aforesaid Northwesterly right-of-way line of Post Street, thence north 44 degrees, 58

minutes 57 seconds East, along last said line, 85 feet to the point of beginning.

The Southwesterly 75 feet of Lots 10 and 11, and the Southwesterly 75 feet of the Southeasterly 34.3 feet of Lot 9, all of Lots 12, 13, 14 and 15, except the Northwest 5 feet of the Southwest 135 feet, Block 66, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

All of Lots 1, 4 and the North 3 feet of Lot 2, Block 57, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The South 47 feet of Lot 2 and all of Lot 3, Block 57, MURRAY HILL HEIGHTS, a subdivision according to the plat thereof recorded at Plat Book 2, Page 87, Public Records of Duval County, Florida, and the Northwesterly 2 inches of Lot 5, Block 57, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 5, except part recorded in Deed 1328, Page 404, and Lot 6, Block 57, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 7, 8 and 9, Block 57, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 5 and 6, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in the Public Records of Duval County, FL, less the Southwesterly 20 feet of said lots conveyed to the City of Jacksonville. Also Lots 8 and 9, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in the Public Records of Duval County, Florida.

Lot 7, Block 56, MURRAY HILL HEIGHTS, excepting the southwesterly 20 feet thereof, recorded in Plat Book 2, Page 87 and Plat Book 5, Page 86 and 86A, Public Records of Duval County, Florida.

Lots 5 and 6, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in the Public Records of Duval County, FL, less the Southwesterly 20 feet of said lots conveyed to the City of Jacksonville. Also Lots 8 and 9, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in the Public Records of Duval County, Florida, less the part conveyed to the State of Florida as reflected in Deed Book 9840, Page 198, Public Records of Duval County, Florida.

The Northwest 35 feet of the Northeast 140 feet of Lot 1, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida; and

Lots 2 and 3, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida, except the Southwesterly 20 feet thereof as conveyed to the City of Jacksonville by Deed Book 1338, Page 493; and

all of Lot 4, Block 56, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5, Page 86 and 86A, Public Records of Duval County, Florida, except the Soutwesterly 20 feet of said Lot 4 conveyed to the City of Jacksonville by deed recorded in Book 382, Page 109.

The Southeasterly 100 feet of the Northeasterly 140 feet of Lot 1, Block 56, MURRAY HILL HEIGHTS, according to the plat thereof recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 14, Block 47, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 12 and 13, Block 47, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5,

Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 9, 10 and 11, Block 47, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 2, Page 87 and Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 9, 10 and 11, Block 47, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 2, Page 87 and Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 5, Block 47, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 4, Block 47, MURRAY HILL HEIGHTS, according to plat thereof recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northeasterly 90 feet of Lots 1, 2 and 3, Block 47, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Southwest 70 feet of Lots 1, 2 and 3, Block 47, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 5 and 6, Block 46, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86, Public Records of Duval County, Florida.

Lot 4, Block 46, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 3, Block 46, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 1 and 2, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 3, 4, 8, 9 and 10, Block 42, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 1, 2 and 6, except for the Northwest 1.3 feet of Lots 2 and 6, Block 42, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northwest 80 feet of Lot 1, Block 45, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Southeast 50 feet of Lot 8, Block 45, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northwest 110 feet of Lot 8, Block 45, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northwest 43 feet of the Southeast 83 feet of Lot 1, Block 44, and the Southeasterly 1/2 of the Southeasterly 1/2 of Lot 1, Block 44, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Northerly 77 feet of Lot 1, and the Southeasterly 493/4 feet of Lot 8, Block 44, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Southeast 60.25 feet of the northwest 110 feet of Lot 8, block 44, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northerly 50 feet of Lot 8, Block 44, less and except the Westerly 49 feet thereof, REPLAT OF MURRAY

HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Westerly 49 feet of the Northerly 50 feet of Lot 8, Block 44, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northwest half of Lot 3 and all of Lots 4 and 5, Block 40, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 6, 7 and 8, Block 40, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 88, Block 36, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida; and that certain triangular lot lying Westerly of Lot 88 in said Block and sometimes designated Lot "W", and being more particularly described as follows: begin at the intersection of the southerly right-of-way line of Post Street (as now established) with the Northerly right-of-way line of Cypress Street (a 60 foot right-of-way as now established); thence Easterly along said

Northerly right-of-way line 101.12 feet to the Westerly line of said Lot 88; thence through an interior angle to the right of 90°84'58" along said Westerly line, 97.93 feet to the aforesaid right-of-way line of Post Street; thence through an interior angle to the right of 45°52'30" along said right-of-way line, 140.87 feet to the point of beginning having a closing interior angle to the right of 44°02'32".
Lot 85, 86 and 87 except that part in Post Street, Block 36, REPLAT MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.
Lots 15, 16, 17 and 18, Block 39, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.
Lots 15, 16, 17 and 18, Block 39, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.
Lots S and T, JASMINE PLACE, according to the plat thereof as recorded in Plat Book 9, Page 45, Public Records of Duval County, Florida.

Lot C, JASMINE PLACE, according to the plat thereof as recorded in Plat Book 9, Page 45, Public Records of Duval County, Florida.

Lot B, JASMINE PLACE, according to the plat thereof as recorded in Plat Book 9, Page 45, Public Records of Duval County, Florida.

Lot A, JASMINE PLACE, according to the plat thereof as recorded in Plat Book 9, Page 45, Public Records of Duval County, Florida.

The Southeasterly 125 feet of Lots 6 and 7, Block 39, and the Southwest 100 feet of Lot 8, Block 39, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 4 and 5, Block 39, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 31, Block 39, REPLAT OF MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northerly 20 feet of Lot 2, Block 39, and Lot 3, Block 39, REPLAT OF MURRAY HILL HEIGHTS, according to

plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 1 and 2, Block 39, REPLAT OF MURRAY HILL HEIGHTS, except for the Northeasterly 20 feet of Lot 2, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 4, 5 and 6, Block 71, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 1, 2 and 3, Block 71, REPLAT OF MURRAY HILL HEIGHTS, except the Northerly 55.7 feet thereof, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Southeast 25 feet of Lot 28 and all of Lots 29 and 30, Block 72, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

The Northeast 10 feet of Lots 20, 21 and 22 and all of Lots 23 to 27 and the Northwest 25 feet of Lot 28, Block 72, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 18 and 19, Block 77, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lot 17, Block 77, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 13, 14 and 15, Block 77, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Lots 10, 11 and 12, Block 77, MURRAY HILL HEIGHTS, according to plat thereof as recorded in Plat Book 5, Pages 86 and 86A, Public Records of Duval County, Florida.

Part of Section 20, Township 2 South, Range 26 East, Duval County, Florida, together with a part of McIver Street (a 20' +/- right-of-way), closed by City Ordinance 72-28-5, more particularly described as follows: commence at the intersection of the Northerly line of Lenox Avenue (a 60.0 foot right-of-way) with the Easterly line of Edgewood Avenue (as shown on D.O.T. right-of-way Map Section 72500-2601 dated February 26, 1960); Thence North 44 degrees 05 minutes 31 seconds West, 121.46 feet, along the Easterly line

of said Edgewood Avenue; Thence North 54 degrees 33 minutes 26 seconds East, 49.02 feet, to the point of beginning; Thence continue North 54 degrees 33 minutes 26 seconds East, 120.0 feet; Thence South 35 degrees 26 minutes 34 seconds East, 92.80 feet; Thence South 31 degrees 27 minutes 13 seconds East, 71.87 feet, to the Northerly line of said Lenox Avenue, being in a curve concave to the Northwest and having a radius of 924.93 feet; Thence around and along said curve and the Northerly line of said Lenox Avenue, through a central angle of 07 degrees 07 minutes 43 seconds, an arc distance of 115.08 feet (chord bearing and distance of South 54 degrees 56 minutes 55 seconds West, 115.00 feet); Thence North 35 degrees 26 minutes 34 seconds West, 163.71 feet, to the point of beginning.

That certain tract or parcel of land being a part of Section 20, Township 2 South, Range 26 East, Duval County, Florida, being more particularly described as beginning at the intersection of the Easterly right of way of Edgewood Avenue and the Southerly limited access right of way line of Interstate Highway No. 10 (both as now established); thence South 32 degrees 58 minutes East, along said Easterly right of way line of Edgewood Avenue 155.79 feet; thence South 45 degrees

20 minutes 54 seconds East, continuing along said Easterly right of way line of Edgewood Avenue 81.85 feet; thence North 8 degrees 04 minutes 55 seconds West, 255.71 feet to a point in said southerly limited access right of way line of Interstate Highway No. 10; thence South 58 degrees 45 minutes 23 seconds West along said Southerly limited access right of way of Interstate Highway No. 10, 125.21 feet to the Point of Beginning.

(7) The Springfield Commercial Area includes the following properties in the City of Jacksonville, Duval County, Florida:

The West 80 feet of Lots 3 and 4, Block 62, NEW SPRINGFIELD, according to the plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida.

The West 80 feet of Lot 1, Block 61, NEW SPRINGFIELD, and the 5 foot strip adjoining the Western boundary of Lot 1, Block 61, NEW SPRINGFIELD, according to the plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida.

The West 80 feet of Lot 1, together with the East one-half of the closed alley lying Westerly thereof, in Block 61, NEW SPRINGFIELD, according to the plat

thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida.

The West 80 feet of Lots 3 and 4, Block 61, NEW SPRINGFIELD, according to the plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida, together with the Easterly 241/2 feet of Lot 14, Block 7, according to plat recorded in Plat Book 2, Page 98, Public Records of Duval County, Florida, and the 141/2 feet next adjoining said Lot 14 on the East as more particularly described in Deed Book 1377, Page 3, Public Records of Duval County, Florida.

Lots 1 and 2, except the East 20 feet thereof, in Block 60, NEW SPRINGFIELD, according to the plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida, and a portion of Block 12 of LINDSLEY'S SUBDIVISION, of Lot 3 of Section 1 in Township 2 South Range 26 East, according to plat thereof at Page 98, Plat Book 2, and land hereby conveyed being more particularly described as follows: Beginning at the intersection of the South line of West 18th Street and the West line of Main Street, as now existing; running thence Westerly along the South line of said West 18th Street 108 feet; running thence South parallel with the West line of Main Street 105 feet; running thence Easterly parallel

with the South line of West 18th Street 108 feet to the West line of Main Street as now existing; running thence Northerly along the said West line of Main Street 105 feet to the point of beginning.

All of Lots 3 and 4, Block 60, NEW SPRINGFIELD, according to the plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida. Also beginning at a point of the North line of 17th Street, said point being located 300 feet East of Northeast corner of Laura and 17th Street; thence Easterly along said North line of 17th Street for a distance of 27 feet 9 inches to the West line of said Lot 4, Block 60, NEW SPRINGFIELD; thence Northerly along the West line of said Lots 3 and 4, Block 60, NEW SPRINGFIELD, for a distance of 105 feet; thence Westerly on a line parallel to 17th Street for a distance of 27 feet 9 inches to a point that is 300 feet East of the East line of Laura Street; thence Southerly on a line parallel to Laura Street for a distance of 105 feet to a place of beginning, being a part of Block 12 of LINDSLEY'S SUBDIVISION of Lot 3, Section 1, Township 2 South, Range 26 East, according to plat recorded in Plat Book 2, Page 98 of the current public records of Duval County, Florida.

Lots 12, 13, and 14 of Block 13, Lindley's Subdivision, as recorded in Plat Book 2, page 98, of the Public Records of Duval County, Florida, together with Lots 1, 2, 3, and 4, except the east 20 feet conveyed to City of Jacksonville, Block 59 of New Springfield Subdivision as recorded in Plat Book 3, page 12, of said Public Records, and Lots 17, 18, and 19 of Block 13, G. S. Young's Subdivision, recorded in Plat Book 5, page 23, said Public Records, and all of the 10 foot alley lying easterly of the southerly extension of the west line of said Lot 19, Block 13, of G.S. Young's Subdivision, as closed by Ordinance 2008-167-E and recorded in Official Records Book 14462, page 488, said Public Records, and together with a part of Section 1, Township 2 South, Range 26 East, Duval County, Florida, and being more particularly described as follows: For a Point of Beginning commence at a 5/8" rebar (Cap LB6110) at the northwest corner of said Lot 19, Block 13, G.S. Young's Subdivision; thence North 89 degrees 42 minutes 55 seconds East, along the south right of way line of Seventeenth Street West (a 50 foot right of way), a distance of 202.99 feet to a 1/2" iron pipe (Cap LB3672) on the current west right of way line of Main Street (U.S. Highway No. 17, a 100 foot right of

way); thence South 01 degrees 45 minutes 05 seconds East, along said west right of way line, a distance of 210.00 feet to an "X" cut on the north right of way line of Sixteenth Street West (a 50 foot right of way); thence South 89 degrees 42 minutes 55 seconds West, along said north right way line, a distance of 251.24 feet to a 5/8" rebar (Cap LB6110) on said west line of said Lot 12, Block 13, Lindley's Subdivision; thence North 01 degrees 45 minutes 05 seconds West, along the west line of said Lot 12, a distance of 100 feet to a 1/2" iron pipe (Cap LB3672) on the south line of the 10 foot alley in said Block 13; thence North 89 degrees 42 minutes 55 seconds East, along said south line of alley, a distance of 48.19 feet to a 1/2" iron pipe (Cap LB3672) at its intersection with a southerly projection of the west line of said Lot 19, Block 13, G. S. Young's Subdivision; thence North 01 degrees 45 minutes 05 seconds West, along said west line of Lot 19 and its southerly projection, a distance of 110.00 feet to the Point of Beginning. Lots 1 and 2 and fractional part of Lot West thereof, Block 58, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida.

Lots 3 and 4 and the North 36/100 feet of Lot 5, excepting therefrom the East 20 feet of each Lot, and together with the unnumbered Lots lying West of and adjacent to said Lots 3, 4 and 5, Block 58, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida.

Part of Lot 6, Block 58, NEW SPRINGFIELD, and fractional lot to the West thereof, according to plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida, described as: beginning at the southeast corner of Lot 6, Block 58, NEW SPRINGFIELD, and run thence north along the west line of Main Street a distance of 25 feet to a point; run thence West along a line parallel to the north line of Lemain Court Road, a distance of 123 feet to the east line of Charlevoix Street, run thence Southwesterly along the east line of Charlevoix Street to the point of intersection of the east line of Charlevoix Street with the north line of Lemain Court Road; thence run east along the North line of Lemain Court Road, a distance of 124 feet to the point of beginning, less the easterly 20 feet thereof conveyed to the City of Jacksonville by Deed recorded in Deed

Book 327, Page 18, Public Records of Duval County, Florida.

Lots 1, 2 and 3 (except the East 20.0 feet thereof) and the unnumbered lots lying Westerly thereof, Block 57, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 3, Page 12, Public Records of Duval County, Florida, together with that part of Charlevoix Street lying Westerly of and adjacent to the above described lands and closed by Jacksonville City Ordinance S-77.

Part of the Flora A Clark property described in Deed Book AF, Page 735, former public records of Duval County, Florida, being a part of Lot 3, Section 1, Township 2 South, Range 26 East, and more particularly described as beginning at an iron monument at the intersection of the East line of Laura Street, and the North line of the right of way of St. Johns River Terminal Company, running thence Northerly along the east line of Laura Street 144.01 feet to an iron monument; thence running south 89 degrees, 14 minutes east 290.1 feet to an iron monument along the westerly line of the Old Panama Mill Road; running thence South 2 degrees, 31 minutes west along the Westerly boundary of said Old Panama Mill Road 217 feet to an iron monument in the Northerly boundary line of said St.

Johns River Terminal Company right of way; thence running Northwesterly along the northern boundary of said right of way to the point of beginning.

East 100 feet lying North of 12th Street, Block 14, 2-4 Springfield, Lot 6, Block 140, Warren, according to plat recorded in Plat Book AO, Page 240, Public Records of Duval County, Florida, as reflected in Deed Book 05765, Page 0558.

A part of Lots 2 and 3, Block 14, Warren's Subdivision, as recorded in Deed Book AO, Page 240 of the former public records of Duval County, Florida, being more particularly described as follows: For a point of beginning, commence at the intersection of the southerly right of way line of 12th Street as now established as a 60 foot right of way with the westerly right of way line of Main Street; thence South 01 degrees 35 minutes 30 seconds East, along said westerly right of way line, a distance of 106.00 feet; thence South 89 degrees 17 minutes 28 seconds West, a distance of 100.10 feet; thence North 01 degrees 33 minutes 46 seconds West, along the line dividing the aforementioned Warren's Subdivision from Springfield as recorded in Plat Book 2, page 40, of said current public records, a distance of 106.00 feet to the aforementioned southerly right of way line of

12th Street; thence North 89 degrees 17 minutes 28 seconds East, along said southerly right of way line, a distance of 100.04 feet to the point of beginning according to survey prepared by Charles Bassett & Associates, Inc., dated August 7, 1981.

The East 100 feet of the South 1/2 of Block 14, Warren Subdivision, lying north of 11th Street and south of 12th Street, as recorded in Deed Book AO, Page 240, former Public Records of Duval County, Florida.

Part of Blocks 1 and 14, Warren, as recorded in Deed Book AO, Page 240, former Public Records of Duval County, Florida, and a part of the west 11th Street closed by Ordinance R 102 - Deed Book 276, Page 433, current Public Records of said county, more particularly described as: Begin at the intersection of the westerly line of Main Street (a 100 foot right of way) and the southerly line of West 11th (a 60 foot right of way) both as now established; thence southerly along the westerly line of said Main Street, 212.02 feet to the northerly line of Cottage Avenue as now established for a width of 60 feet; thence Westerly along the northerly line of said Cottage Avenue, 100; thence northerly 211.77 feet to a point in the southerly line of said West 11th Street that is

100 feet westerly of the point of beginning; thence easterly along the southerly line of said West 11th Street, 100 feet to the point of beginning; excepting the property described in Deed Book 903, Page 452, Public Records of Duval County, Florida.

The East 100' of the South 9.7' of Lot 2, Block 1 Warren and the East 100' of the North 89' Lot 3, Block 1 Warren, according to plat recorded in Plat Book AO, Page 240, Public Records of Duval County, Florida.

East 100 Feet of North 44.5 feet Lot 4, South 11 feet of East 100 feet Lot 3, Block 1, Warren, according to plat recorded in Plat Book AO, Page 240, Public Records of Duval County, Florida, as reflected in Deed Book 05699, Page 01926.

North 1/2 of the South 551/2 feet of the East 100 feet of Lot 4, Block 1, Warren, according to plat thereof recorded in Deed Book AO, Page 240, former Public Records of Duval County, Florida.

South 1/2 of the South 551/2 feet of the East 100 feet of Lot 4, Block 1, Warren, according to plat thereof recorded in Deed Book AO, Page 240, former Public Records of Duval County, Florida.

Part of an unnumbered block sometimes referred to as Block 114, Springfield, according to the plat thereof recorded in Plat Book 2, Page 5, current public

records of Duval County, Florida, described as: being at the intersection of Westerly line of Main Street and Northerly line of West 10th Street; thence North 5 degrees 17 minutes East 54.64 feet along the Westerly line of said Main Street to the North line of Hogan Donation; thence South 89 degrees 21 minutes West 102.4 feet along the North line of Hogan Donation to an iron in the Easterly line of Lot 7, Block 122, Springfield Northern Portion recorded in Plat Book 2, Page 40, thence South 1 degree 14 minutes West 44.16 feet along the Easterly line of said Lot 7 of the Northerly line of West 10th Street; thence South 84 degrees 44 minutes East, 98.73 feet, along West 10th Street to the point of beginning.

Lot 9 and the North 1/2 of Lot 10, Block 58, WEST SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Southern 1/2 of Lot 10, and Lot 11, Block 58, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lot 12 except the Southern 1/2, Block 58, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Southern 1/2 of Lot 12, Block 58, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lots 13 and 14, Block 58, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

The East 85 feet of the South 29 feet, 8 inches of Lot 13, and the East 85 feet of Lot 14, all in Block 50, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

The South 29 feet 8 inches of the West 40 feet of Lot 13 and the West 40 feet of Lot 14, Block 50, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 15, Block 50, EAST SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lot 16, Block 50, EAST SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

The East 1/2 of Lot 1, and the South 1/2 of Lot 2, Block 50, SPRINGFIELD, according to plat thereof

recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

The West 1/2 of Lot 1, Block 50, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 4-5, Public Records of Duval County, Florida.

The East 1/2 of Lot 14 and the South 18 feet of the East 1/2 of Lot 13, Block 49, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

West 1/2 of Lot 14 and the South 18 feet of the West 1/2 of Lot 13, Block 49, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 15, Block 49, WEST SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida, except part recorded in Official Records 2537, Page 395.

East 1/2 of Lot 16, Block 49, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

West 1/2 of Lot 16, Block 49, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 1, Block 49, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 6 and North 1/2 Lot 5, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

West 1/2 of Lot 7, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

East 1/2 of Lot 7, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

East 60 feet of Lot 8, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

West 42 1/2 feet Lot 9, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 34.83 feet of the East 82.5 feet of Lot 9, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 34.83 feet of the East 82.5 feet of Lot 9, Block 41, SPRINGFIELD, according to plat thereof recorded in

Plat Book 2, Page 5, Public Records of Duval County, Florida.

Northeast 1/2 of Lot 10, Block 41, WEST SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 34.83 feet of Lot 10, Block 41, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 1/2 of Lot 5 and Lot 6, Block 42, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 9, Block 42, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 32 feet of Lot 10, Block 42, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 6, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 28 feet of Lot 5, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 9, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 10, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 11, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lot 12, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 13, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 14, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

East 41 feet of Lot 15 (except North 103 feet), Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

West 31 feet of Lot 15 except the North 103.3 feet, Block 43, SPRINGFIELD, according to plat thereof

recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 103 feet of Lot 15, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 16, Block 43, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 9, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 1/2 of Lot 10, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 1/2 of Lot 10, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 1/2 of Lot 11, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 1/2 of Lot 11, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

Lot 12 and North 1/2 of Lot 13, Block 34, SPRINGFIELD, according to plat thereof recorded in

Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 1/2 of Lot 13, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

East 75 feet of Lot 14, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

West 35 feet of the East 92 feet of Lot 14, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

West 34 feet of Lot 14, Block 34, except 60.80 feet, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

South 60.80 feet of the West 17.33 feet of Lot 14, Block 34, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Northeast 1/4 of the Northeast 1/4 of Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 1/2 of Lots 7 and 8, and a strip off the West end of Lot 7, 10 feet by 105 feet, Block 27, SPRINGFIELD, Map Book 2, Page 878, Public Records of Duval County, Florida.
South 511/2 feet of the East 199 feet of the North 209 feet of Block 27, SPRINGFIELD, according to plat thereof as recorded in Deed Book Q, Page 878, former Public Records of Duval County, Florida.
Lot 12, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.
Lot 14, together with the South 47.7 feet of Lot 13, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.
Lot 1 and the South 5 feet of Lot 2, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.
Lot 2, less the South 5 feet of Lot 2, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.
North 34 feet of Lot 2, and South 34.5 feet of Lot 3, Hoyt's subdivision of Lots 15 and 16, Block 27,

SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

South 34.5 feet of Lot 3, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

North 5.5 feet of Lot 3 and all of Lot 4 of the Hoyt's subdivision of Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

Lot 9 and the South 4 feet of Lot 8, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

North 36 feet of Lot 8, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

North 36 feet of Lot 8 and all of Lot 7, and the South 2 feet of Lot 6, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

North 39 feet of Lot 6, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

Lot 5 and the North 39 feet of Lot 6, Hoyt's subdivision of Lots 15 and 16, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 7, Page 20, Public Records of Duval County, Florida.

Lot 7, Block 27, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lot 9, Block 18, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida, together with the East 1/2 of the closed alley adjoining said lots to the West, closed by Ordinance FF-261.

Lots 12, 13, 14, Block 18, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida, together with the East 1/2 of the closed alley adjoining said lots to the West, closed by Ordinance FF-261.

Lot 15, Block 18, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida, together with the South 1/2 of the closed alley closed by Ordinance FF-

261 lying Northerly of and adjacent to the Northerly line of the lands described in O.R. Book 2456, Page 1083, Public Records of Duval County, Florida.

Lot 16, Block 18, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lots 7, 8 and 16, Block 18, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida, together with the North 1/2 and West 1/2 of the closed alley adjoining said Lot 7 to the South and 8 to the East, and the South 1/2 of the closed alley adjoining said Lot 16 to the North, all closed by Ordinance FF-261.

Lots 9 and 10, Block 11, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 39.66 feet of Lot 11, Block 11, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 30 feet of Lot 11, Block 11, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 36 feet of Lot 12, Block 11, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

South 33 feet, 8 inches of Lot 12, Block 11, SPRINGFIELD, according to plat thereof recorded in Deed Book Q, Page 878, former Public Records of Duval County, Florida; and Part of Lot 13, Block 11, SPRINGFIELD, according to the Springfield Company's plat of Hogan's Donation, Plat Book 1, Page 14, former Public Records of Duval County, Florida, described as: beginning at the Northeast corner of said Lot 13, on the Western line of Main Street; running thence Westerly along the North line of said Lot 13, 125 feet to an alley, being the Northwest corner of said lot, thence South on line parallel with Main Street 40 feet 7 inches; thence East on line parallel with the first mentioned line 42 feet; thence South on line parallel with Main Street, 9.3 feet; thence East on a line parallel with first line 83 feet to Main Street; thence North along West side of Main Street 50 feet more or less to point of beginning.

Part of Lot 13, recorded in Deed Book 697, Page 170, and West 50 feet of Lot 14, recorded in Deed Book 105, Page 153, Block 11, SPRINGFIELD, according to plat thereof as recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida; and part of Lots 13 and 14, Block 11, SPRINGFIELD, beginning at the Southeast corner of said Lot 14, being the Northwest

corner of Third and Main Streets, running thence Northerly along West line of Main Street, 89.45 feet to the North side of brick wall, thence Westerly along the Northerly side of said brick wall and parallel to Third Street 75 feet, thence Southerly parallel to Main Street 89.45 feet to the Northerly line of Third Street, thence Easterly along the Northerly line of Third Street, 75 feet to the point of beginning.

Lot 9, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lot 10, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lot 11, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lot 12, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

North 28 feet of Lot 13, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

South 41.66 feet of Lot 13, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lot 14, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lots 15 and 16, Block 3, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida, together with the South 1/2 of closed alley lying North of Lots 15 and 16, Block 3, SPRINGFIELD, closed by Ordinance 84-950-584.

All of Lots 8, 9, 10 and 11, together with that part of Lot 15 lying west of Lot 8 and North of the Westerly projection of the Southerly line of Lot 8, together with the North 1/2 of the closed alley lying south of Lot 9 and all of the closed alley lying east of Lot 9, all within Block 2, SPRINGFIELD, recorded in Plat Book 1, Page 144, former public records of Duval County, Florida.

All of Lots 12, 13 and 16; part of that certain unnumbered lot sometimes referred to as Lot 15 lying Westerly and adjacent to said Lots 12 and 16; part of a 12 foot alley closed by Ordinance FF-350 lying Westerly of and adjacent to said unnumbered lot and

Southerly of a Westerly projection of the Northerly line of said Lot 12; and that part of the South 1/2 of that certain 12 foot alley closed by Ordinance DD-130 lying Northerly of and adjacent to said Lot 13; all being part of Block 2, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lots 7 and 14, Block 2, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 5, Public Records of Duval County, Florida.

All of Block 137 of Hart's Map of Jacksonville bounded North by Orange Street, East by Ocean Street, South by State Street and West by Main Street, excepting part of Lot 1, acquired by Duval County and Florida State Improvement Commission by Order of Taking recorded in Official Records Book 165, Page 465.

Lots 1, 2 and 3, Hart's Map of Jacksonville, Duval County, Florida.

The North 302/3 feet of the South 105 feet of the West 105 feet of Lot 4, Block 97, SPRINGFIELD, according to plat thereof as recorded in Plat Book 2, page 4, of the current public records of Duval County, Florida.

The West 52 feet of the East 104 feet of the South 1/2 of Lot 4, Block 97, SPRINGFIELD, according to plat

thereof as recorded in Plat Book 2, page 4, of the current public records of Duval County, Florida.
Lot 1 and the South 2.83 feet of Lot 2, Block 111, EAST SPRINGFIELD, according to the plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.
The Northerly 67.00 feet of Lot 2, Lot 3 and the South 1/2 of Lot 4, Block 111, EAST SPRINGFIELD, according to the plat thereof recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.
The North 1/2 of Lot 4, Block 111, SPRINGFIELD, according to the plat thereof recorded at Plat Book 2, Page 4, Public Records of Duval County, Florida.
Lots 5 and 6, Block 111, SPRINGFIELD, according to the plat thereof recorded at Plat Book 2, Page 4, Public Records of Duval County, Florida.
Lot 8, Block 111, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Pages 4 and 5, Public Records of Duval County, Florida, together with the Northerly 1/2 of the closed alley lying southerly of and adjacent to said Lot 8 (said alley closed by Ordinance No. DD-429).
Lot 7, Block 111, SPRINGFIELD, according to plat thereof recorded in plat Book 2, page 4 of the current public records of Duval County, Florida.

Lots 1 and 2, Block 109, SPRINGFIELD, according to the plat thereof recorded at Plat Book 2, Page 4, Public Records of Duval County, Florida, and a portion of the alley closed pursuant to Ordinance 96-86-31.

Lots 3, 4, 7, 8 and the West 60.00 feet of the North 35.00 feet of Lot 16, together with the following described part of the 12 foot alley closed by the City of Jacksonville, ordinance 96-86-31, recorded in Official Records Book 8301, Page 1128, Public Records of Duval County, Florida, the Easterly 6 feet of the 12 foot alley lying West of and adjacent to the North 139.34 feet of Lot 7; all of the 12 foot alley lying east of and adjacent to Lot 4 and the Northerly 48.99 feet of Lot 3; the Westerly 6 feet of the 12 foot alley lying Easterly of and adjacent to the South 28.68 feet of Lot 3; all of the 12 foot alley lying North of and adjacent to the West 60 feet of Lot 16; the Northerly 6 feet of the 12 foot alley lying South of and Adjacent to Lot 8 and the East 12 feet of Lot 7, All in Block 109, EAST SPRINGFIELD, as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lots 5 and 6, Block 109, SPRINGFIELD, according to plat thereof recorded in Deed Book AJ, Page 765, former Public Records of Duval County, Florida, and

Plat Book 2, Page 4, Public Records of Duval County, Florida, together with the West 1/2 of a closed alley by ordinance 96-86-31 recorded in Official Records Book 8301, Page 1128, Public Records of Duval County, Florida.

The East 36 feet of the South 110 feet of Lot 16, Block 109, SPRINGFIELD, County of Duval, State of Florida, as recorded in Plat Book 2 Page 4, of the current public records of Duval County, Florida.

Lots 1, 2, 15 and 16, Block 12, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida, together with that portion of that 12 foot alley adjacent to Lots 1, 2 and 16 as shown on the plat of Springfield and closed and abandoned by ordinance 2006-96-E recorded in Official Records Book 13138, Page 340, Public Records of Duval County, Florida.

Lot 3, Block 12, SPRINGFIELD, according to the plat thereof recorded at Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lots 4 and 5, Block 12, SPRINGFIELD, according to the plat thereof recorded at Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lot 1 Block 17, SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Page 4, of the Public Records of Duval County, Florida.

South 1/2 of Lot 2, Block 17, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida.

North 1/2 of Lot 2, Block 17, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida.

Part of Lot 4, Block 17, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida, more particularly described as: Beginning at a point on the Easterly side of Main Street 139.32 feet South of the Easterly line of 5th Street and running then Southerly along Main Street 69.99 feet to the Southerly line of said Lot 4; thence Easterly along the Southerly line of said Lot 4, 125.00 feet to an alley; thence Northerly along said alley 69.66 feet, to a point 139.32 feet South of the Southerly line of 5th Street; thence Westerly parallel with the Southerly line of 5th Street 125.00 feet to the place of beginning; together with Lot 3, Block 17, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida.

Lot 5, Block 17, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, page 5, of the current public records of Duval County, Florida.

Lot 6, Block 17, SPRINGFIELD, according to plat recorded in Plat Book 2, page 4 of the public records of Duval County, Florida.

Lot 1, J.C. Greeley's Subdivision of West 1/2 of Block 28, SPRINGFIELD, a subdivision according to the plat thereof recorded at Plat Book 1, Page 154, in the Public Records of Duval County, Florida.

Lots 2 and 3 (except the portion included in Official Records Book 15561, Page 1925), Block 28, SPRINGFIELD, according to plat recorded in Plat Book 2, page 4 of the public records of Duval County, Florida.

West 1/2 of Lot 7, Block 28, SPRINGFIELD, a part of the City of Jacksonville, according to plat recorded in Plat Book 2, page 4 of the public records of Duval County, Florida.

West 35 feet of the East 36 feet of Lot 7, Block 28, SPRINGFIELD, according to plat thereof as recorded in Plat Book 1, Page 154, Public Records of Duval County, Florida.

All of Lots 1, 2, 3, 7, 9, 10, 11, 14, 15 and 16, together with Lots 12 and 13, except that part recorded in Official Records Volume 3264, Page 142,

together with that certain 12 foot alley (closed by ordinance GG-11) lying between said Lots 7 and 16 and the South 1/2 of said alley lying North and adjacent to said Lot 15; together with that certain 12 foot alley (closed by ordinance 71-709-303), lying between said Lots 13, 14 and 15, all within Block 33, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida, as more particularly described in Deed Book 17244, Page 1565.

Lots 4 and 5, Block 33, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida.

Lot 6, Block 33, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida.

Lot 8, Block 33, SPRINGFIELD, according to plat recorded in Plat Book 2, Page 4, of the current public records of Duval County, Florida.

All of Lots 1, 2, 3, 7, 9, 10, 11, 14, 15 and 16, together with Lots 12 and 13, except that part recorded in Official Records Volume 3264, Page 142, together with that certain 12 foot alley (closed by ordinance GG-11) lying between said Lots 7 and 16 and the South 1/2 of said alley lying North and adjacent

to said Lot 15; together with that certain 12 foot alley (closed by ordinance 71-709-303) lying between said lots 13, 14 and 15, all within Block 33, SPRINGFIELD, as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida, as more particularly described in Deed Book 17244, Page 1565.
Part of Lots 12 and 13 as recorded in Official Records Volume 3264, Page 142, Public Records of Duval County, Florida.
Lot 1, Block 44, SPRINGFIELD, according to plat thereof as recorded in Plat Book 1, Page 145, former Public Records of Duval County, Florida.
Lot 2, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
The South 1/2 of Lot 3, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.
The South 1/2 of Lot 4, and the North 1/2 of Lot 3, Block 44 of SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.
North 1/2 of Lot 4, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

South 49.69 feet of Lot 5, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
North 20 feet of Lot 5 and all of Lot 6, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
Lots 7-16, including alley east of said lots, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
Lot 2 (except the south 34.67 feet), Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
South 34.67 feet of Lot 2, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
The West 45 feet of Lot 1, Block 45, EAST SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
West 38 feet, 5 inches of the East 80 feet of Lot 1, Block 45, EAST SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

East 41 feet, 7 inches of Lot 1, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

West 1/2 of Lot 16, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

Lot 15 and East 1/2 of Lot 16, Block 45 SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

Lots 9, 10 and 11, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

North 1/2 of Lot 12, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

The North 1/2 of Lot 13, Block 45, East SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

The South 1/2 of Lot 13, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.

Lot 14, except the Easterly 71.28 feet thereof Block 45, SPRINGFIELD, according to the plat thereof as

recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.

The Easterly 71.28 of Lot 14, Block 45, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

NE 1/4 of the SW 1/4 of Section 24, Township 2 South, Range 23 East, lying North of Old Plank Road, recorded in OR Book 5218, Page 25, Duval County, Florida.

Lot 6 and the North 1/2 of Lot 5, Block 46, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.

East 1/2 of Lot 9, Block 46, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.

West 89 feet of Lot 6, Block 75, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.

East 36 feet of Lot 6, Block 75, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.

Lot 7, Block 75, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4-5, Public Records of Duval County, Florida.

West 341/2 feet of Lot 8, Block 75, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
The East 37.5 feet of Lot 8, Block 75, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
Lot 9 and the north 1/2 of Lot 10, Block 75, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 4, Public Records of Duval County, Florida.
North 1/2 of Lot 10, Block 75, of SPRINGFIELD, according to the map or plat as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.
Lots 1, 2, SIMMON'S DIVISION of part of Block 74, SPRINGFIELD, according to the plat thereof, as recorded in deed Book 41, Pages 262, 263, and 264, former Public Records of Duval County, Florida.
Lots 3, SIMMON'S DIVISION of part of Block 74, SPRINGFIELD, according to the plat thereof, as recorded in deed Book 41, Pages 262, 263, and 264, of the former Public Records of Duval County, Florida.
East 100 feet of Lot 1, Block 71, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, page 46, Public Records of Duval County, Florida.

The West 25 feet of Lot 1, Block 71, SPRINGFIELD COMPANY'S REVISED plat of the Eastern portion of Hogan's Donation according to the plat thereof, as recorded in Plat Book 2, Page 46, Public Records of Duval County, Florida.

Lots 13 and 14, Block 70, SPRINGFIELD, according to the plat thereof recorded at Plat Book 2, Page 6, Public Records of Duval County, Florida.

South 78 feet of Lot 8, Block 70, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Page 46, Public Records of Duval County, Florida, together with the North 1/2 of closed alley lying South of and adjacent to said South 78 feet of Lot 8, Block 70, as closed, vacated and abandoned by Ordinance 76-162-85.

Lot 1 and the South 1/2 of Lot 2, Block 70, SPRINGFIELD, according to plat thereof recorded in Plat Book 2, page 46, Public Records of Duval County, Florida.

Lot 14, Block 54, SPRINGFIELD, according to map or plat thereof as recorded in Plat Book 2, page 46, Public Records of Duval County, Florida.

The East 40 feet of Lot 1 and the East 40 feet of the South half of Lot 2, Block 54, SPRINGFIELD, according thereof recorded in Plat Book 2, page 46 of the

Current Public Records of Duval County, Florida; and the West 85 feet of Lot 1 and the West 85 feet of the South 34.67 feet of Lot 2, Block 54, SPRINGFIELD, according thereof recorded in Plat Book 2, Page 46 of the current Public Records of Duval County, Florida.

North 46 feet and 10 inches of Lot 13, Block 53, SPRINGFIELD, according to the plat thereof, recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

Lot 15 and 16, Block 53, SPRINGFIELD, according to plat thereof as recorded in Plat Book 2, Pages 4-5, Public Records of Duval County, Florida.

The East 42 feet of Lot 1, Block 53, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

The East 43 feet of the West 83 feed of Lot 1, Block 53, EAST SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

Lot 2, Block 44, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

The South 35 feet 10 inches of Lot 2, Block 53, EAST SPRINGFIELD, according to the plat thereof as recorded

in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

The North 33 feet 10 inches of Lot 2, Block 53, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4- 5, Public Records of Duval County, Florida.

The South 1/2 of Lot 3, Block 53, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

North half of Lot 3 and the Westerly 32 feet of Lot 7, Block 53, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

The Easterly 63 feet of Lot 14, FLORIDA FINANCE COMPANY'S Replat of the Southeasterly Quarter of Block 52, SPRINGFIELD, according the plat thereof recorded in Plat Book 1, page 154, former Public Records of Duval County, Florida.

The East 31.5 feet of the West 62 feet of Lot 14, FLORIDA FINANCE COMPANY'S SUBDIVISION of SE 1/4 of Block 52, SPRINGFIELD, according to the plat thereof recorded in Plat Book 1, Page 154, former Public Records of Duval County, Florida.

The West 30.5 feet of Lot 14, FLORIDA FINANCE COMPANY'S SUBDIVISION OF SE 1/4 of Block 52,

SPRINGFIELD, according to the plat thereof recorded in Plat Book 1, Page 154, former Public Records of Duval County, Florida.

Lot 15, Block 52, SPRINGFIELD, according to plat thereof recorded in Plat Book 1, Page 154, of the former Public Records of Duval County, Florida. Also, South 60 feet of West 84 feet of Lot 2, Block 52, SPRINGFIELD, according to plat thereof recorded in Deed Book Q, page 878, Public Records of Duval County, Florida.

The South 1/2 of Lot 13, Block 52, of SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

The North 1/2 of Lot 13, Block 52, of SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

The South 1/2 of Lot 12, Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

The North 1/2 of Lot 12, Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Plat

Book 2, at Pages 4-5, Public Records of Duval County, Florida.

South 34 feet of the East 125 feet of the Northeast 1/4 of Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

North 45 feet of South 79 feet of East 125 feet of Lot 2, Block 52, SPRINGFIELD, according to plat thereof, as recorded in Deed Book Q, Page 878, former Public Records of Duval County, Florida.

The North 40 feet of the South 119 feet of the East 125 feet of Lot 2, Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Deed Book Q, Page 878, Public Records of Duval County, Florida.

The East 621/2 feet of the North 90 feet of the East 125 feet of tine Northeast 1/4 of Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

The West 62.5 feet of the North 90 feet of the East 125 feet of Lot 2, Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4, Public Records of Duval County, Florida.

North 149 feet of West 84 feet of Lot 2, Block 52, SPRINGFIELD, according to the plat thereof, as

recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

The South 70 feet of the West 125 feet of Lot 4, Block 52, SPRINGFIELD, as per plat thereof, recorded in Deed Book Q, Page 878, former Public Records of Duval County, Florida, and in Plat Book 2, Page 5, Public Records of Duval County, Florida.

The Southwest 1/4 of Block 52, being sometimes referred to as Lot 4, Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Deed Book Q, at Page 878, former Public Records of Duval County, Florida, excepting therefrom the South 70 feet of the West of the West 130 feet of said Southwest 1/4 (also known as Lot 4).

South 50 feet of North 150 feet of West 100 feet of Lot 1 and South 60 feet of Lot 2, Block 52, SPRINGFIELD, according to the plat thereof, as recorded in Plat Book 2, at Pages 4-5, Public Records of Duval County, Florida.

The West 101 feet of the North 100 feet of Lot 1, Block 52, SPRINGFIELD, according to the plat thereof as recorded in Deed Book Q, pages 878 and 879, former Public Records of Duval County, Florida, and as recorded in Plat Book 2, at Pages 4-5, current Public Records of Duval County, Florida.

The East 39 feet of the North 149 feet of Lot 1, Block 52, EAST SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

A portion of Lot 1, Block 52 of SPRINGFIELD, according to the plat recorded in Deed Book Q, Pages 878 and 879 of the former Public Records of Duval County, Florida, described as follows: Beginning at a point 39 feet West of the Northeast corner of Lot 1, Block 52, SPRINGFIELD aforesaid, thence continue running West along the Southerly side of East 9th Street, 69 feet to a point; thence South and perpendicular to said 9th Street a distance 100 feet to a point; thence West and parallel to 9th Street a distance of 1 foot to a point; thence South 49 feet to a point; thence East and parallel to 9th Street a distance of 70 feet to a point; thence North and perpendicular to said 9th Street a distance of 149 feet to the point of beginning.

Lot 1 and the South 36 feet, 8 inches of Lot 2, Block 57, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

The North 33 feet of Lot 2, block 57, SPRINGFIELD, according to the plat thereof as recorded in Plat Book 2, Page 4-5, Public Records of Duval County, Florida.

The South 1/2 of Lot 3, Block 57, SPRINGFIELD, according to plat thereof as recorded in Plat Book 2, Page 4, Public Records of Duval County, Florida.

The North 1/2 of Lot 3 and all of Lots 4, 5, and 6, Block 57, SPRINGFIELD, according to plat thereof as recorded in Plat Book 2, Pages 4-5, Public Records of Duval County, Florida.

Lots 8 and 9, Block 48, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lots 10, 11 and 12, Block 48, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lots 9, Block 37, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 10 and the South 20 feet of Lot 11, Block 37, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

North 30 feet of Lot 11 and the South 4 feet of Lot 12, Block 37, NEW SPRINGFIELD, according to plat

thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

North 46 feet of Lot 12, Block 37, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 9, Block 34, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lots 10 and 11, Block 34, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 12, Block 34, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 9, Block 23, and part of closed alley received pursuant to ordinance 77-578-252, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 8, Block 23, and part of the closed alley received pursuant to ordinance 77-578-252, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 13, Block 23, and part of the closed alley received pursuant to ordinance 77-578-252, NEW SPRINGFIELD, according to plat thereof recorded in

Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lots 10, 11 and 12, Block 23, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 9, Block 20, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 8, Block 20, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 13, Block 20, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lots 10, 11 and 12, Block 20, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida.

Lot 8, Block 9, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida, together with the East 1/2 of the vacated alley lying immediately West of the adjoining said Lot 8; and Lots 9 and 10, Block 9, NEW SPRINGFIELD, according to plat thereof recorded in Plat Book 2, Pages 69-70, Public Records of Duval County, Florida, together with the West 1/2 of the

vacated alley lying immediately east of the adjoining said Lots 9 and 10.

(8) The San Marco Transportation Corridor is that part of the San Marco Overlay of the City of Jacksonville, Duval County, Florida, described as:

Lot 1, Block 2, ALFORD PARK, according to the map thereof as recorded in Plat Book 16, Page 25, Public Records of Duval County, Florida.
Lot 2, Block 2, ALFORD PARK, according to the map thereof as recorded in Plat Book 16, Page 25, Public Records of Duval County, Florida.
Lots 1 and 2, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.
Lot 4, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.
Lot 3, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.
Lot 6, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 5, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 8, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 7, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 10, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 9, Block 17, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lots 1, 2, 3, 4, 5 and 6, Block 16, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 8, Block 16, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 7, Block 16, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lots 9 and 10, Block 16, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 1, Block 14, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 2, Block 14, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida, together with that portion of Thacker Avenue vacated by Ordinance No. 2006-831-E, as recorded in Official Records Book 13494, Page 144, Public Records of Duval County, Florida.

Lots 3 through 10, Block 14, and Lots 5, 6, 8, 9, 10, Block 15, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida, together with that portion of Thacker Avenue vacated by Ordinance No. 2006-831-E, as recorded in Official Records Book 13494, Page 144, Public Records of Duval County, Florida.

Lots 1 and 2, Block 15, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida, together with that portion of Thacker Avenue vacated by Ordinance No. 2006-831-E, as recorded in Official Records Book

13494, Page 144, Public Records of Duval County, Florida.

Lot 3, Block 15, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida, together with that portion of Thacker Avenue vacated by Ordinance No. 2006-831-E, as recorded in Official Records Book 13494, Page 144, Public Records of Duval County, Florida.

Lots 4, Block 15, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lot 7, Block 15, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida, together with that portion of Thacker Avenue vacated by Ordinance No. 2006-831-E, as recorded in Official Records Book 13494, Page 144, Public Records of Duval County, Florida.

Lots 10, 11, Avondale Company's Replat of Block 10, SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 99, Public Records of Duval County, Florida.

A portion of Lot 9, Block 10, San Marco Avondale Company's Replat of Block 10, SAN MARCO, according to

Plat Book 15, Page 99, Public Records of Duval County, Florida.

Lot 1, Block 10, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lot 2, Block 10, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lot 3 and 4 and north 15 feet of Lot 5, Block 10, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lot 5, Block 10, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lot 1, Block 11, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lot 2, Block 11, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lot 3, Block 11, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lots 1 through 4, Block 12, FLETCHER PARK, according to plat thereof recorded in Book 7, Page 14, Public Records of Duval County, Florida.

Lots 1, 2 and a portion of Lot 3, Block 13, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida, and Lot 30, Block 11, SHADYSIDE, as recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida, as more particularly described in Deed recorded at Official Records Book 17206, Page 1384, Public Records of Duval County, Florida.

Lot 6 and the Westerly 4 feet of Lot 7, Block 11, SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 64, Public Records of Duval County, Florida.

Lot 5, Block 11, SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 64, Public Records of Duval County, Florida.

Lots 2, 3 and 4, Block 11, SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 64, Public Records of Duval County, Florida.

Lot 1, Block 11, Avondale Company's Replat of SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 64 Public Records of Duval County, Florida.

Lots 10 and 11, Block 9, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lot 9, Block 9, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lots 6, 7 and 8, Block 9, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lots 5 and 6, Block 9, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lot 13, Block 7, Avondale Company's Replat of SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 64 Public Records of Duval County, Florida.

A portion of Lot 11 and Lot 12, Block 7, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Easterly 26.0 feet of Lot 9, all of Lot 10 and the Westerly 25.35 feet of Lot 11, Block 7, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida, together with that part of San Marco Boulevard more particularly described as follows: Begin at the Northeast corner of Lot 10, Block 7, Avondale

Company's Replat of Lots 7 to 11, Block 7 and all of Block 11, San Marco (Plat Book 11, Page 5) according to the plat recorded in Plat Book 15, Page 64, Public Records of Duval County, Florida; thence Northwesterly along the Northeasterly line of said Lot 10 a distance of 50 feet to the Northwesterly corner of said Lot 10; thence Northeasterly, perpendicular to last mentioned line, a distance of 9 feet; thence Southeasterly, parallel to and distant 9 feet from said Northeasterly line of said Lot 10, a distance of 50 feet; thence Southwesterly a distance of 9 feet to the point of beginning.

Lots 8 and 9, Block 7, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lot 7, Block 7, Avondale Company's Replat of SAN MARCO, according to plat thereof recorded in Plat Book 15, Page 64 Public Records of Duval County, Florida.

Lot 15, Block 6, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lot 13, Lot 14 and Lot 15, and a portion of Lot 16, Block 5, RIVIERA, according to plat thereof recorded in Plat Book 7, Page 37, Public Records of Duval County, Florida.

Lot 1, Block 3, RIVIERA, according to plat thereof recorded in Plat Book 7, Page 37, Public Records of Duval County, Florida.

Lot 38, RIVIERA PLACE, according to plat thereof recorded in Plat Book 8, Page 35, Public Records of Duval County, Florida.

Lots 28 and 29, RIVIERA PLACE, according to plat thereof recorded in Plat Book 8, Page 35, Public Records of Duval County, Florida.

Lots 10, 11, 12, and 13, Replat of Block 7, SCHNEIDER'S Replat of Blocks 6 and 7, OKLAHOMA, according to plat thereof recorded in Plat Book 7, Page 22, Public Records of Duval County, Florida.

Lot 1 of a replat of Block 7, SCHNEIDER'S Replat of Blocks 6 and 7, OKLAHOMA, as recorded in Plat Book 7, pages 22 Public Records of Duval County, Florida.

Lot 2, Replat of Block 7, SCHNEIDER'S Replat of Blocks 6 and 7, OKLAHOMA, according to plat thereof recorded in Plat Book 7, Page 22, Public Records of Duval County, Florida.

Lot 17, Block C of CLARKES'S replat of Block 16, OKLAHOMA, according to the plat thereof as recorded in Plat Book 7, Page 32, Public Records of Duval County, Florida.

Lot 18, Block C, CLARKE'S replat of Block 16, OKLAHOMA, according to the plat thereof, recorded in Plat Book 7, page 32, Public Records of Duval County, Florida.

Lot 2, Block C, CLARKE'S replat of Block 16, OKLAHOMA, according to plat thereof recorded in Plat Book 7, Page 32, Public Records of Duval County, Florida.

Lot 1, Block C, CLARKE'S replat of Block 16, OKLAHOMA, according to the map or plat thereof as recorded in Plat Book 7, page 32, Public Records of Duval County, Florida.

Lots 17 and 18, Block D, Clark's replat of Block 16, OKLAHOMA, according to plat thereof recorded in Plat Book 7, page 32 Public Records of Duval County, Florida.

The Easterly 76 feet of Lot 1, Block D, Clarke's replat of Block 16, OKLAHOMA, according to the plat thereof recorded in Plat Book 7, Page 32, Public Records of Duval County, Florida.

Lots 17 and 18, Block 4, PHILLIPS ADDITION TO PALM PARK, according to plat thereof as recorded in Plat Book 8 Page 11, of Public Records of Duval County, Florida.

Lot 5, Block 4, PHILLIPS ADDITION TO PALM PARK, according to plat thereof as recorded In Plat Book 8, page 11 Public Records of Duval County, Florida.

Lots 17 and 18 of Block 3, PHILLIPS ADDITION TO PALM PARK according to plat thereof recorded in Plat Book 8, page 11, Public Records of Duval County, Florida.

Lot 2 and the East 30 feet of Lot 3, Block 3, PHILLIPS ADDITION TO PALM PARK, according to plat there of as recorded in Plat Book 8, Page 11, Public Records of Duval County, Florida.

Lot 1, Block 3 of PHILLIPS ADDITION TO PALM PARK, according to the plat thereof as recorded in Plat Book 8, Page 11, Public Records of DUVAL County, Florida.

Lot 4, IDEAL INVESTMENT COMPANY'S replat of Block 23, OKLAHOMA SUBDIVISION, according to the plat thereof recorded in Plat Book 7, Page 30, Public Records of Duval County, Florida.

Lot 5, IDEAL INVESTMENT COMPANY'S replat of Block 23, OKLAHOMA SUBDIVISION, according to the plat thereof recorded in Plat Book 7, Page 30, Public Records of Duval County, Florida.

Lot 6, IDEAL INVESTMENT COMPANY'S replat of Block 23, OKLAHOMA SUBDIVISION, according to the plat thereof recorded in Plat Book 7, Page 30, Public Records of Duval County, Florida.

Lots 7 and 8, IDEAL INVESTMENT COMPANY'S replat of Block 23, OKLAHOMA SUBDIVISION, according to the plat thereof recorded in Plat Book 7, Page 30, Public Records of Duval County, Florida.

Lot 9, IDEAL INVESTMENT COMPANY'S replat of Block 23, OKLAHOMA SUBDIVISION, according to the plat thereof recorded in Plat Book 7, Page 30, Public Records of Duval County, Florida.

Lots 10 and 11, Ideal Investment Company's replat of Block 23, OKLAHOMA Subdivision, according to the plat thereof recorded in Plat Book 7, Page 30, Public Records of Duval County, Florida.

A part of Lots 10 and 11, Block 15, OKLAHOMA, according to plat recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida, particularly described as follows:

Beginning at a point on the Southerly side of Cedar Street, South Jacksonville, Florida, which point is 109 feet Easterly of the Northwest corner of said Lot 10; thence Easterly along the Southerly side of Cedar Street 50 feet to the Northeast corner of said Lot 10; thence Southerly and parallel with Forest Avenue, 100 feet; thence Westerly and parallel with Cedar Street 50 feet; thence Northerly and parallel with Forest Avenue, 100 feet to point of beginning.

South 20 feet of Lot 11 and the North 30 feet of Lot 12, Block 15, OKLAHOMA, according to the Plat thereof as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

South 30 feet of Lot 12 and the North 20 feet of Lot 13, Block 15, OKLAHOMA, according to the Plat thereof as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 13, EXCEPT the Easterly 60 feet thereof and also, EXCEPTING the Northerly 20 feet thereof, and all of Lots 14, and 15, Block 15, OKLAHOMA, according to the Plat thereof as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 16, Block 15, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 18, Block 15, OKLAHOMA, as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lots 17 & 18, Block 15, OKLAHOMA, according to the plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

The West 105 feet of Lot 12, Block 6, SCHNEIDER'S REPLAT, according to the plat thereof recorded in Plat Book 4, page 37, Public Records of Duval County, Florida.

The East 441/4 feet of Lots 11 and 12, Block 6, SCHNEIDER'S REPLAT of Block 6 and 7, OKLAHOMA, according to the map or plat thereof, as recorded in Plat Book 4, Page 37, Public Records of Duval County, Florida.

West 105 feet of Lot 11, Block 6, SCHNEIDER'S REPLAT of Blocks 6 and 7 OKLAHOMA, according to the Plat thereof as recorded in Plat Book 4, Page 37, Public Records of DUVAL County, Florida.

Lot 10, Block 6, SCHNEIDER'S REPLAT of Blocks 6 and 7 OKLAHOMA, according to the Plat thereof as recorded in Plat Book 4, Page 37, Public Records of DUVAL County, Florida.

Lot 9, Block 6, SCHNEIDER'S REPLAT of Blocks 6 and 7, OKLAHOMA, according to plat thereof recorded in Plat Book 4, Page 37, Public Records of Duval County, Florida.

Lots 7 and 8, Block 6, SCHNEIDER'S REPLAT of Blocks 6 and 7, OKLAHOMA, according to plat thereof recorded in Plat Book 4, Page 37, Public Records of Duval County, Florida.

Lot 6, Block 6, SCHNEIDER'S REPLAT of Block 6 and 7 OKLAHOMA, as recorded in Plat Book 4, Page 37, Public Records of Duval County, Florida.

Lot 7, Block 2, RIVIERA, as recorded in Plat Book 7, Page 37, all as recorded in the Public Records of Duval County, Florida.

Lot 10 and the Easterly portion of Lot 11, in Block 5, RIVIERA, according to the plat recorded in Plat Book 7, Page 37, Public Records of Duval County, Florida.

Lots 1 through 18, Block 28, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida, together with that certain 18' alley lying between the westerly line of Lots 1 through 9 and the easterly line of Lots 10 through 18, Block 28, OKLAHOMA, according to Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 1, Block Eleven 11, OKLAHOMA according to Plat thereof recorded in Plat Book 2, at Page 7, Public Records of Duval County, Florida.

North 1/2 of Lot 2, Block 11, OKLAHOMA, according to Plat thereof as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

South 1/2 of Lot 2, Block 11, OKLAHOMA, according to plat thereof as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 3 and the Northerly 6 inches, more or less, Lot 4, Block 11, OKLAHOMA, according to plat recorded in Plat

Book 2, page 7 Public Records of Duval County, Florida.

The South 59.5 feet of Lot 4, Block 11, OKLAHOMA, according to plat thereof as recorded in Plat Book 2, page 7, Public Records of Duval County, Florida.

Lots 5 & 6, Block 11, OKLAHOMA, as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

The South 30 feet of Lot 6 and all of Lot 7, Block 11, of OKLAHOMA, according to plat thereof as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 9, Block 11, OKLAHOMA, as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 1, Block 2, OKLAHOMA, as recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Lot 1, Block 6, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 2 and 3, Block 6, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lot 4, Block 6, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 5 and 6, Block 6, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lot 7, Block 6, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 8, 9 and 10, Block 6, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

That part of those lands conveyed by Harley Wiles, as trustee for John A. Wiles and said John A. Wiles to Joseph E. Sallas and Marie H. Sallas, his wife, by deed dated May 30, 1921, recorded in deed book 211, page 195, Public records of Duval County, Florida, and that part of those lands conveyed by Villa Alexandria Homes Company to Joseph E. Sallas and Marie H. Sallas, his wife, by that deed dated October 25, 1934, recorded in deed book 680, page 471, Public records of Duval County, Florida, more particularly described as follows: beginning at a point on Landon Avenue, which point is on the south side of said Landon Avenue 153 feet westerly of the west side of Hendricks Avenue, thence southerly and parallel with said Hendricks Avenue 102.4 feet to the north line of San Marco Place, according to plat thereof recorded in plat book

15, page 22, Public records of Duval County, Florida, thence westerly along the north line of said San Marco Place, 50.82 feet, thence northerly along the line parallel with Hendricks Avenue 101.75 feet to the southerly line of Landon Avenue, thence easterly along the southerly line of Landon Avenue 51 feet to the point of beginning. Said tract being the lot described in deed recorded in deed book 923, page 53, Public Records of Duval County, Florida.

Parcel D - part of the William Craig grant, section 46, township 2 south, range 26 east, described as the easterly half of that property conveyed to Joseph E. Sallas and Marie H. Sallas by Harley Wiles as trustee for John A. Wiles, by deed dated May 30, 1921 recorded in deed book 211, page 196 Public records of said county, said easterly half being more particularly described as follows, to wit: commencing at a point in the southerly line of Landon Avenue 102 feet westerly of the westerly line of Hendricks Avenue; thence southerly and parallel to Hendricks Avenue 103.88 feet to a point; thence westerly along the northerly line of San Marco Place according to plat recorded in plat book 15, page 22 of said public records, a distance of approximately 51 feet to the property heretofore conveyed by Joseph E. Sallas and Marie H. Sallas to

Frank F. Roberts and Madeline Roberts, his wife; thence northerly and parallel to the westerly line of said Hendricks Avenue, a distance of 102.4 feet to a point in the southerly line of Landon Avenue; thence easterly along the southerly line of Landon Avenue 51 feet to the point of beginning. Also any portion of that property described in deed from San Marco Place company to Joseph E. Sallas and Marie H. Sallas, dated December 25, 1941, recorded in deed book 923, page 55 lying between the side lines of the above described property, if extended in a southerly direction, to the north line of San Marco Place, not covered by the first description above.

Parcel E - that part of the tract of land recorded in deed book 112, page 196, shown on the plat of Shadyside in the William Craig grant, section 46, township 2, south, range 26 east, recorded in plat book 2, page 91 marked "john a. Wiles" public records of Duval County, Florida, described as follows: beginning near the northeast corner of said tract at the intersection of the westside of Hendricks Avenue and the southside of Landon Avenue as shown on said plat; running thence southerly along the western side of Hendricks Avenue one hundred twenty three feet (123) to a point; thence running westerly at right

angles to Hendricks Avenue one hundred feet (100) to a point; running thence northerly and parallel to Hendricks Avenue one hundred three and 88/100 feet (103.88') to a point on the southside of Landon Avenue; running thence easterly along the southside of Landon Avenue one hundred two feet (102') to the point of beginning.

Lot 13, SAN MARCO PLACE, according to plat thereof recorded in Plat Book 15, Page 22, Public Records of Duval County, Florida.

A portion of Lot 11, Block 10, San Marco Avondale Company's Replat of Block 10, SAN MARCO, according to Plat Book 15, Page 99, Public Records of Duval County, Florida, also known as Unit 2000-2 and more particularly described in Deed recorded in Official Records Book 8922, Page 1974, Public Records of Duval County, Florida.

Lot 8 and a portion of Lot 9, Block 10, San Marco Avondale Company's Replat of Block 10, SAN MARCO, according to Plat Book 15, Page 99, Public Records of Duval County, Florida, also described as Unit 2016.

A portion of Lot 9 and Lot 8, Block 10, San Marco Avondale Company's Replat of Block 10, SAN MARCO, according to Plat Book 15, Page 99, Public Records of Duval County, Florida.

Lots 5, 6 and 7, Block 10, San Marco Avondale Company's Replat of Block 10, SAN MARCO, according to Plat Book 15, Page 99, Public Records of Duval County, Florida.

Lots 1, Block 21, FLETCHER PARK, according to the plat thereof recorded in Plat Book 7, page 14, of the current public record of Duval County, Florida.

The North 50 feet of the South 150 feet of Lot 3, Block 13, FLETCHER PARK, according to plat thereof recorded in Plat Book 7, Page 14, Public Records of Duval County, Florida.

Lots 16, 28, 29, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 26 and 27, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 26 and 27, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lot 25, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 23 and 24, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 20, 21, 22, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 4 and 18, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lot 5, Block 11, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lot 10 and parts of Lots 11 and 12, Block 5, SHADYSIDE, according plat thereof recorded in Plat Book 2, Page 91, of the current public record of Duval County, Florida, as more particularly described in Deed recorded at Official Records Book 11556, Page 873, Public Records of Duval County, Florida.

Lot 12 and 13, Block 5, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Lots 1, 2,3,16 and 17, Block 5, SHADYSIDE, according to plat thereof recorded in Plat Book 2, Page 91, Public Records of Duval County, Florida.

Fractional Block 1, OKLAHOMA, according to the plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida, said Fractional part of said Block being bounded by North LaSalle Street, formerly Pine Street, East by Thacker Avenue, formerly Myrtle Avenue, West by Hendricks Avenue, and South by Block 5, according to the plat of SHADYSIDE, Plat Book 2, Page 91, Public Records of Duval County, Florida.

All of Block A, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lots 1, 2, 3, 4, 12, 13 and 14, Block 10, San Marco Avondale Company's Replat of Block 10, SAN MARCO, according to Plat Book 15, Page 99, Public Records of Duval County, Florida.

Lot 13, Block 6, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lot 12, Block 6, SAN MARCO, according to plat thereof recorded in Plat Book 11, Page 5, Public Records of Duval County, Florida.

Lot 1 and the Northerly 30 feet of Lot 2, Block 20, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Southerly 30 feet of Lot 2 and fractional Lot 3, Block 20, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida.

Portion of Lots 3 and 4, Block 20, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida, as more particularly described in Deed Book 5814, Page 867, Public Records of Duval County, Florida.

Lots 5, 6, 7, 8, Block 20, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida, together with the westerly one-half of ally closed by Ordinance No. AA-307.

Lot 9, Block 20, OKLAHOMA, according to plat thereof recorded in Plat Book 2, Page 7, Public Records of Duval County, Florida, together with the westerly one-half of alley closed by Ordinance No. AA-307.

(9) The Kings Avenue Commercial Corridor is all lands fronting on Kings Avenue between Prudential Drive and Atlantic Boulevard.

(10) The North Florida Keys Corridor is all lands with commercial land use and zoning fronting on Heckscher Drive in

the City of Jacksonville, between and adjacent to Clapboard Creek on the south/west end and Haulover Creek at the north/east end.

(11) The Dennis Street Commercial Corridor is defined as follows:

PARCEL A

A PORTION OF THE I. HENDRICKS GRANT, SECTION 40, AND A PART OF THE I. HENDRICKS GRANT, SECTION 41, TOWNSHIP 2 SOUTH, RANGE 26 EAST, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF DENNIS STREET (A 50 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) WITH THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE 95 (A VARIABLE WIDTH RIGHT OF WAY, AS NOW ESTABLISHED); THENCE NORTH 74°19'06" WEST, ALONG SAID NORTHERLY RIGHT OF WAY LINE OF DENNIS STREET, 460.38 FEET TO THE NORTHWESTERLY LINE OF THOSE LANDS DESIGNATED PARCEL 1, DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 17551, PAGE 577 OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY; THENCE NORTH 16°12'03" EAST, ALONG LAST SAID LINE, 315.62 FEET TO THE

NORTHERLY LINE OF LAST SAID LANDS; THENCE SOUTH 73°52'12" EAST, ALONG LAST SAID LINE, 223.25 FEET TO THE POINT OF CURVATURE OF A CURVE LEADING EASTERLY; THENCE EASTERLY, CONTINUING ALONG LAST SAID LINE AND ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 925.40 FEET, AN ARC DISTANCE OF 50.50 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 72°18'24" EAST, 50.49 FEET TO THE NORTHEASTERLY LINE OF LAST SAID LANDS; THENCE SOUTH 52°48'08" EAST, ALONG LAST SAID LINE, 300.85 FEET TO THE AFORESAID WESTERLY RIGHT OF WAY LINE OF INTERSTATE 95; THENCE SOUTH 41°08'42" WEST, ALONG LAST SAID LINE, 223.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 3.41 ACRES, MORE OR LESS.

PARCEL B

ALL OF BLOCK 1 AND A PORTION OF BLOCK 4, OF JOHNSON'S SUBDIVISION OF THE HULL TRACT, RECORDED IN PLAT BOOK 1, PAGE 132 OF THE FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, A PORTION OF LOT "A", CAMPBELL'S ADDITION TO LAVILLA, RECORDED IN DEED BOOK AR, PAGE 151 OF SAID FORMER PUBLIC RECORDS, AND A PORTION OF

IVES STREET (CLOSED PER ORDINANCE 2018-652-E, RECORDED IN OFFICIAL RECORDS BOOK 18614, PAGE 24050 OF THE CURRENT PUBLIC RECORDS OF SAID COUNTY), BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF DENNIS STREET (A 50 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) WITH THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE 95 (A VARIABLE WIDTH RIGHT OF WAY, AS NOW ESTABLISHED); THENCE SOUTH 41°08'42" WEST, ALONG SAID WESTERLY LINE OF INTERSTATE 95, A DISTANCE OF 88.20 FEET TO THE POINT OF CURVATURE OF A CURVE LEADING SOUTHWESTERLY; THENCE SOUTHWESTERLY, CONTINUING ALONG LAST SAID LINE AND ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1887.36 FEET, AN ARC DISTANCE OF 136.18 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 43°12'43" WEST, 136.15 FEET; THENCE NORTH 74°32'07" WEST, 11.23 FEET; THENCE SOUTH 13°35'46" WEST, 1.33 FEET; THENCE SOUTH 76°24'14" EAST, 10.63 FEET TO THE AFORESAID WESTERLY RIGHT OF WAY LINE OF INTERSTATE 95 AND THE ARC OF A CURVE LEADING SOUTHWESTERLY; THENCE SOUTHWESTERLY, ALONG LAST SAID LINE AND ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF

1887.36 FEET, AN ARC DISTANCE OF 62.94 FEET, SAID ARC BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 46°16'08" WEST, 62.94 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF HARPER STREET (A 50 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); THENCE NORTH 74°00'18" WEST, ALONG LAST SAID LINE, 37.80 FEET; THENCE NORTH 76°16'54" WEST, 50.36 FEET TO THE AFORESAID NORTHERLY RIGHT OF WAY LINE OF HARPER STREET; THENCE NORTH 75°50'19" WEST, ALONG LAST SAID LINE, 199.71 FEET TO THE EASTERLY RIGHT OF WAY LINE OF ERNEST STREET (A 50 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); THENCE NORTH 14°21'29" EAST, ALONG LAST SAID LINE, 262.42 FEET TO THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF DENNIS STREET; THENCE SOUTH 74°19'06" EAST, ALONG LAST SAID LINE, 427.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.14 ACRES, MORE OR LESS.

1802 DENNIS ST

LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 2, CAMPBELL'S HILL, ACCORDING TO MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 135, FORMER PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

Section 2. Notwithstanding s. 561.20(1), Florida Statutes, in the areas herein described as Southbank, Riverside Avondale Urban Transition Area, Riverside Avondale Commercial Character Areas, Murray Hill Commercial Area, Springfield Commercial Area, and San Marco Transportation Corridor, the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may issue a special alcoholic beverage license to any bona fide restaurant containing all necessary equipment and supplies for and serving full course meals regularly and having accommodations at all times for service of 100 or more patrons at tables and occupying not less than 1,800 square feet of floor space which derive no less than 51 percent of gross income per annum from the sale of food consumed on the premises; provided that such licenses shall be subject to local zoning requirements and to any provision of the alcoholic beverage laws of the state and rules of the division not inconsistent herewith.

Section 3. Notwithstanding s. 561.20(1), Florida Statutes, in the areas herein described as Northside West, Northside East, ~~and~~ Kings Avenue Commercial Corridor, and North Florida Keys Corridor, the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may issue a special alcoholic beverage license to any public food service establishment that is equipped to serve 50 or more persons at one time and occupying not less than 1,000 square feet of service area which derives at least 51 percent of its gross food and beverage

revenue from the sale of food and nonalcoholic beverages; provided that such licenses shall be subject to local zoning requirements and to any provision of the alcoholic beverage laws of the state and rules of the division not inconsistent herewith.

Section 4. Notwithstanding s. 561.20, Florida Statutes, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may issue special alcoholic beverage licenses to event centers in the area herein described as the Dennis Street Commercial Corridor, which have an occupant capacity between 2,100 and 2,900 people, an overall floor capacity between 22,000 and 35,000 square feet, and derive no less than 51 percent of annual gross income from the sale of event center tickets and food and nonalcoholic beverages that are prepared, served, and consumed on such premises. For the purposes of this act, the term "event center" means a facility that routinely hosts events for which entrance is by customers who have purchased tickets, including, but not limited to, musical concerts and art shows; hosts events sponsored or organized by nonprofit organizations; and otherwise does not market itself primarily as a food service establishment. The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may revoke or suspend any such license for violations of the

Beverage Law and regulations of the state not inconsistent herewith.

Section 2. (1) There is created a special zone in the City of Jacksonville Beach to be known as the Downtown Incentive Zone. The area is described as follows:

All lands bounded by 3rd Street, the Atlantic Ocean, 6th Avenue North, and 2nd Avenue South.

(2) Notwithstanding s. 561.20(1), Florida Statutes, in the area described as the Downtown Incentive Zone, the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may issue a special alcoholic beverage license to any public food service establishment that is equipped to serve 50 or more persons at one time and occupying not less than 1,200 square feet of service area which derives at least 51 percent of its gross food and beverage revenue from the sale of food and nonalcoholic beverages; provided that such licenses shall be subject to local zoning requirements and to any provision of the alcoholic beverage laws of the state and rules of the division not inconsistent herewith.

Section 3. This act shall take effect upon becoming a law.

PCS for HB 1251

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1251 Limited Barbering
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Reform & Economic Development Subcommittee		Wright	Anstead

SUMMARY ANALYSIS

Barbers and barbershops are regulated by ch. 476, F.S., and licensed by the Barbers' Board under the Department of Business and Professional Regulation (DBPR). A barber's license is required to perform barbering services.

The bill allows a person without a license to practice barbering to perform services designated by the board as limited barbering, if the person:

- Performs limited barbering under the supervision of a licensed barber in a licensed barbershop,
- Has not been disciplined relating to the practice of barbering in the previous 3 years, and
- Has successfully completed any education course requirements the board requires on sanitation safety, including education on HIV and AIDS, if such education is a condition of granting a license to practice barbering.

The bill allows a registered person to perform limited barbering in a licensed barbershop.

The bill allows the board to revoke or suspend any registration to practice limited barbering, and requires the board to keep record of any disciplinary proceedings against persons registered to practice limited barbering.

The bill will have an indeterminate negative fiscal impact on state government, and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Barbering

Barbers and barbershops are regulated by Ch. 476, F.S., and licensed by the Barbers' Board (board) under the Department of Business and Professional Regulation (DBPR).

'Barbering' means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances."[1]

A barber's license is required to perform barbering services.[2] To be eligible for licensure, barbers must:[3]

- be at least 16 years old,
- complete the required training,
- pass the written examination, and
- pay a $205.50 application fee,[4] plus a $5 unlicensed activity fee.[5]

Generally, barbers must complete 900 hours of education in the profession; however, barber applicants are eligible to take the examination after 600 hours of education. If the examination is not successful, the full 900 hours must be completed.[6] There is also an option to be a barber with a restricted license, which is 600 hours training in total and restricts such barbers from applying chemical solutions or preparations to hair.[7] A restricted barber may perform the following services:[8]

- Hair cutting and styling, including the application of hair tonics and hair spray, but not including the application of any other chemical preparations or solutions to the hair,
- Full facial shaves,
- Mustache and beard trimming, and
- Shampooing hair, including the application of shampoos and hair conditioners and blow drying the hair.

There are currently 14,147 barbers and 7,231 restricted barbers. In Fiscal Year 21-22, for barbers, DBPR received 140 complaints against barbers, and took 15 disciplinary actions. For restricted barbers, DBPR received 79 complaints against barbers, and took 9 disciplinary actions.[9]

Barbershops

[1] S. 476.034(2), F.S.
[2] S. 476.144(1), F.S.
[3] S. 476.114, F.S.
[4] R. 61-35.006, F.A.C..
[5] S. 455.2281, F.S.
[6] S. 476.114(2)(c), F.S.
[7] S. 476.144(6), F.S.; R. 61G3-16.006, F.A.C.
[8] R. 61G3-16.006(4), F.A.C.
[9] Email from Jonas Marquez, Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: Question (Mar. 14, 2021).

In Florida, barbershops must be registered.[10] Barbershops are inspected periodically by DBPR, in accordance with sanitary standards set forth by the board.[11]

Generally, all barbering services must performed in registered barbershops by licensed barbers, except services provided:[12]

- in a location other than a registered barbershop, including, but not limited to, a nursing home, hospital, or residence, for a client of ill health who is unable to go to a registered barbershop;
    - arrangements for the performance of such barber services must be made through a registered barbershop.
- in connection with the motion picture, fashion photography, theatrical, or television industry; or
- for a manufacturer trade show demonstration or educational seminar.

However, barbers may shampoo, cut, or arrange hair **outside of a registered barbershop** at any time, and allows barbers to do so without making arrangements or appointments through a registered barbershop.

There are currently 5,791 licensed barbershops. In Fiscal Year 21-22, DBPR received 438 complaints against barbershops, and took 113 disciplinary actions[13]

Unlicensed Practice

Chapter 476, F.S., provides actions that are prohibited under the practice act, which includes holding himself or herself out as a barber unless duly licensed.[14] If a person violates this provision, he or she is subject to one or more of the following penalties:[15]

- Revocation or suspension of any license or registration issued pursuant to this chapter.
- Issuance of a reprimand or censure.
- Imposition of an administrative fine not to exceed $500 for each count or separate offense.
- Placement on probation for a period of time and subject to such reasonable conditions as the board may specify.
- Refusal to certify to the department an applicant for licensure.

Also, certain prohibited actions under are also criminal violations, including:[16]

- Engaging in the practice of barbering without an active license as a barber.
- Hiring or employing any person to engage in the practice of barbering unless such person holds a valid license as a barber.
- Owning, operating, maintaining, opening, establishing, conducting, or having charge of, either alone or with another person or persons, a barbershop:
    - Which is not licensed; or
    - In which a person not licensed as a barber is permitted to perform services.
- Using or attempting to use a license to practice barbering when the license is suspended or revoked.

Any person who violates any such provision is guilty of a misdemeanor of the second degree.[17]

Instruction on HIV and AIDS

Barber applicants and licensees are required to complete a 2-hour board-approved continuing educational course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV

[10] S. 476.184(1), F.S.
[11] S. 476.184(2), F.S.
[12] S. 476.188, F.S.
[13] DBPR, *supra* note 8.
[14] S. 476.204)1), F.S.
[15] S. 476.204(2), F.S.
[16] S. 476.194(1), F.S.
[17] S. 476.194(2), F.S.

and AIDS) as part of initial licensure and license renewal. The course must consist of education on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome.[18]

The board has authority to adopt rules to enforce this requirement.

Effect of the Bill

The bill defines "limited barbering" as the following practices when done for remuneration for the public, but not when done for the treatment of disease or physical or mental ailments:

- Hair cutting and styling, including the application of hair tonics and hair spray, but not including the application of any other chemical preparations or solutions to the hair,
- Mustache and beard trimming, and
- Shampooing hair, including the application of shampoos and hair conditioners and blow drying the hair.

The scope of a limited barber will be the same as a restricted barber, except a restricted barber may perform full facial shaves.

The bill allows a person without a license to practice barbering to perform limited barbering, if:

- The person registers his or her name with the board.
- The person performs limited barbering in a licensed barbershop with a licensed barber present.
- The person has completed a continuing educational course approved by the board on human immunodeficiency virus and acquired immune deficiency syndrome, as required by s. 455.2228.
- The person complies with all safety and sanitation requirements for barbershop personnel while practicing limited barbering at a barbershop.

When the board receives a registration request, the board:

- May not charge a fee for such registration.
- May deny such registration if the person has been disciplined relating to the practice of barbering in the previous 3 years in any jurisdiction or as provided under s. 455.213(3).
- Must list the person on department's website as a limited barber if he or she is granted a registration.

The bill provides that an unlicensed person registered to perform "limited barbering" is not committing unlicensed barbering when providing services.

The bill allows the board to revoke or suspend any registration to practice limited barbering, and requires the board to keep record of any disciplinary proceedings against persons registered to practice limited barbering.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 476.144, F.S.; relating to authorized unlicensed limited barbering.
Section 2: Amends s. 476.188, F.S.; relating to services performed in a barbershop.
Section 3: Amends s. 476.194, F.S.; relating to prohibited acts.
Section 4: Amends s. 476.204, F.S.; relating to administrative penalties.
Section 5: Amends s. 476.214, F.S.; relating to grounds for disciplining a license.
Section 6: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[18] S. 455.2228, F.S.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely reduce revenues to DBPR from licensing fees from people registered to practice limited barbering who would have otherwise obtained a license.[19]

2. Expenditures:

The bill may increase expenditures of DBPR for inspections to ensure compliance with the new limited barber requirements.[20]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow more people to practice certain barbering services without maintaining a full license or paying for barber education.

The bill may decrease attendance and enrollment at barber schools.

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 expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The board will need to promulgate rules related to requirements of the new practice of limited barbering. The board has sufficient authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[19] DBPR, *supra* note 8.
[20] *Id*.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to limited barbering; amending s. 476.144, F.S.; authorizing persons without a license to practice barbering to perform restricted barbering at barbershops if certain requirements are met; amending ss. 476.184, 476.188, 476.194, and 476.204, F.S.; conforming provisions to changes made by the act; amending s. 476.214, F.S.; authorizing the Barbers' Board to discipline persons authorized to practice restricted barbering; providing an effective date; providing an effective date.

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

Section 1. Subsection (8) is added to section 476.144, Florida Statutes, to read:

476.144 Licensure.—

(8)(a) As used in this chapter, "limited barbering" means the following practices when done for remuneration for the public, but not when done for the treatment of disease or physical or mental ailments:

1. Hair cutting and styling, including the application of hair tonics and hair spray, but not including the application of any other chemical preparations or solutions to the hair,

2. Mustache and beard trimming, and

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

3. Shampooing the hair, including the application of shampoos and hair conditioners, and blow drying the hair.

(b) Notwithstanding any other provision of this chapter or board rule, a person without a license to practice barbering, who has not completed the examination or training required under s. 476.114 may perform limited barbering, if:

1. The person registers his or her name with the board.

2. The person performs limited barbering in a licensed barbershop with a licensed barber present.

3. The person has completed the continuing educational course approved by the board on human immunodeficiency virus and acquired immune deficiency syndrome, as required by s. 455.2228.

4. The person complies with all safety and sanitation requirements for barbershop personnel while practicing limited barbering at a licensed barbershop.

(c) Upon receipt of the registration request, the board:

1. May not charge a fee for such registration.

2. May deny such registration if the person has been disciplined relating to the practice of barbering in the previous 3 years in any jurisdiction or as provided under s. 455.213(3).

3. Must list the person on the department's website as a limited barber upon granting a registration.

Section 2. Subsection (10) of section 476.184, Florida Statutes, is amended to read:

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476.184 Barbershop licensure; requirements; fee; inspection; license display.—

(10) Each barbershop shall display, in a conspicuous place, the barbershop license and each individual licensee's certificate or each individual's proof of limited barbering registration.

Section 3. Subsection (1) of section 476.188, Florida Statutes, is amended to read:

476.188 Barber services to be performed in registered barbershop; exception.—

(1) Barber services shall be performed only by licensed barbers in registered barbershops, except as otherwise provided in this section. However, a person registered to perform limited barbering pursuant to s. 476.144(8) may perform limited barbering in a licensed barbershop.

Section 4. Paragraphs (a), (b), and (d) of subsection (1) of section 476.194, Florida Statutes, are amended to read:

476.194 Prohibited acts.—

(1) It is unlawful for any person to:

(a) Engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this act by the department, unless the person is registered to perform limited barbering under s. 476.144(8).

(b) Hire or employ any person to engage in the practice of barbering unless such person holds a valid license as a barber

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or is registered to perform limited barbering under s. 476.144(8).

(d) Own, operate, maintain, open, establish, conduct, or have charge of, either alone or with another person or persons, a barbershop:

1. Which is not licensed under the provisions of this chapter; or

2. In which a person not licensed as a barber is permitted to perform services, unless the person is registered to perform limited barbering under s. 476.144(8).

Section 5. Paragraph (a) of subsection (1) of section 476.204, Florida Statutes, is amended to read:

476.204 Penalties.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a barber unless duly licensed as provided in this chapter or registered to perform limited barbering under s. 476.144(8).

Section 6. Subsections (1) and (2) of section 476.214, Florida Statutes, are amended to read:

476.214 Grounds for suspending, revoking, or refusing to grant license or certificate.—

(1) The board shall have the power to revoke or suspend any license, registration card, or certificate of registration, including a registration to practice limited barbering, issued pursuant to this act, or to reprimand, censure, deny subsequent

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licensure of, or otherwise discipline any holder of a license, registration card, or certificate of registration, including a registration to practice limited barbering, issued pursuant to this act, for any of the following causes:

(a) Gross malpractice or gross incompetency in the practice of barbering;

(b) Practice by a person knowingly having an infectious or contagious disease; or

(c) Commission of any of the offenses described in s. 476.194.

(2) The board shall keep a record of its disciplinary proceedings against holders of licenses or certificates of registration, including a registration to practice limited barbering, issued pursuant to this act.

Section 7. This act shall take effect July 1, 2023.

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