Regulatory Reform & Economic Development Subcommittee

Thursday, February 1, 2024
11:30 AM - 2:30 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

Thursday, February 1, 2024
11:30 am – 2:30 pm
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 583 Individual Wine Containers by LaMarca
- HB 613 Mobile Home Park Lot Tenancies by Stark
- HB 709 In-store Servicing of Alcoholic Beverages by Rizo
- HB 741 Town of Hillsboro Beach, Broward County by LaMarca
- HB 813 Certified Public Accountants by Caruso
- HB 909 Pari-mutuel Permitholders by Esposito
- HB 1021 Community Associations by Lopez, V.
- HB 1245 Veterinary Professional Associates by Killebrew
- HB 1327 Charitable Organizations by Persons-Mulicka
- HB 1335 Department of Business and Professional Regulation by Maggard
- HB 1379 Human Trafficking by Amesty
- HB 1419 Department of Commerce by Tuck
- HB 1483 Pinellas County Construction Licensing Board, Pinellas County by Chaney
- HB 1537 Vacation Rentals by Griffitts
- HB 1559 Professional Licensure by McClure
- HB 1579 Occupational Licensing by Mooney
- HB 1647 Local Regulation of Nonconforming and Unsafe Structures by Roach
- HB 1659 Location of Equipment Owned by Amusement Business Owner by Fabricio, Botana
- HB 7045 OGSR/Department of the Lottery by Ethics, Elections & Open Government Subcommittee, Porras

V. Closing Remarks

VI. Adjournment

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

HB 583

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 583 Individual Wine Containers
SPONSOR(S): LaMarca
TIED BILLS: **IDEN./SIM. BILLS:**

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

Current law addressing limitations on the size of individual wine containers provides the following:

- The sale of wine in an individual container that holds more than one gallon of wine is prohibited.
- Wine may be sold in a reusable container of 5.16 gallons.
- Distributors and manufacturers are allowed to sell wine to other distributors and manufacturers in containers of any size.
- Except for restaurants in certain situations, wine sold or offered for sale by a licensed vendor to be consumed off the premises must be in the unopened original container.
- Violations are a second-degree misdemeanor.

The bill provides an exception to the limitations on the size of individual wine containers by allowing the sale of wine in a glass container of any size.

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

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Beverage Law

In Florida, the Beverage Law[1] regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[2] The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.[3]

"Alcoholic beverages" are defined as "distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume." "Malt beverages" are brewed alcoholic beverages containing malt.[4]

The license and registration classifications used in the Beverage Law include the following:

- "Manufacturers" are those "licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute."
- "Distributors" are those "licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages."
- "Importers" are those licensed to sell, or to cause to be sold, shipped, and invoiced, alcoholic beverages to licensed manufacturers or licensed distributors, and to no one else in this state.[5]
- "Vendors" are those "licensed to sell alcoholic beverages at retail only" and may not "purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law."[6]

Wine Container Limitations

"Wine" is defined as all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.[7]

Current law governing limitations of the size of wine containers:[8]

- Prohibits the sale of wine in an individual container that holds more than one gallon. However, allows wine to be sold in a reusable container of 5.16 gallons.
- Authorizes qualified distributors and manufacturers to sell wine to other qualified distributors and manufacturers in any size container.[9]
- Except for restaurants in certain situations,[10] requires wine sold or offered for sale by a licensed vendor to be consumed off-premises to be in the unopened original container.

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[1] Section 561.01(6), F.S., provides that the "The Beverage Law" includes 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] S. 563.01, F.S.
[5] S. 561.01(5), F.S.
[6] S. 561.14, F.S.
[7] S. 564.01(1), F.S.
[8] S. 564.05, F.S.
[9] *Id.*

- Provides that violations are a second-degree misdemeanor, punishable by a maximum $500 fine[11] and 60 days in prison.[12]

Effect of the Bill

The bill provides an exception to the limitations on the size of individual wine containers by allowing the sale of wine in a glass container of any size.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 564.05, F.S., relating to limitations on the size of individual wine containers.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow the sale of wine in an individual container of any size. This may have a positive fiscal impact on businesses that sell wine.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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[10] The exception allows restaurant patrons to leave the premises with "one unsealed bottle of wine for consumption off the premises," provided certain conditions are met. The wine bottle must be partially consumed with a full course meal, securely resealed by the licensee or one of its employees, secured in a bag or container, wrapped in a way that shows it was previously opened, attached to a dated receipt indicating the full course meal, and transported in a locked vehicle glove compartment, locked trunk, or behind the last upright seat of a motor vehicle that is not equipped with a trunk. Section 564.09, F.S.

[11] S. 775.083(1)(e), F.S.

[12] S. 775.082(4)(b), F.S.

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:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to individual wine containers; amending s. 564.05, F.S.; revising an exception to the maximum allowable capacity for an individual container of wine sold in this state; providing an effective date.

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

Section 1. Section 564.05, Florida Statutes, is amended to read:

564.05 Limitation of size of individual wine containers; penalty.—It is unlawful for a person to sell within this state wine in an individual container holding more than 1 gallon of such wine, unless such wine is in a glass container of any size or a reusable container holding 5.16 gallons. However, qualified distributors and manufacturers may sell wine to other qualified distributors or manufacturers in any size container. Except as provided in s. 564.09, wine sold or offered for sale by a licensed vendor to be consumed off the premises shall be in the unopened original container. A person convicted of a violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. This act shall take effect July 1, 2024.

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

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 583 by Rep. LaMarca
Individual Wine Containers

AMENDMENT SUMMARY
February 1, 2024

Amendment 1 by Rep. LaMarca (lines 15-16):

- Revises the exception to the limitations on the size of individual wine containers in the bill that allows a glass container of any size, to instead allow a glass container holding 4.5 liters, 6 liters, 9 liters, 12 liters, or 15 liters.

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 LaMarca offered the following:

Amendment

Remove lines 15-16 and insert:

such wine, unless such wine is in a reusable container holding 5.16 gallons or a glass container holding 4.5 liters, 6 liters, 9 liters, 12 liters, or 15 liters. However, qualified

HB 613

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 613 Mobile Home Park Lot Tenancies
SPONSOR(S): Stark
TIED BILLS: **IDEN./SIM. BILLS:** SB 1140

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

SUMMARY ANALYSIS

Chapter 723, F.S., the "Florida Mobile Home Act," addresses the unique relationship between a mobile home owner and a mobile home park owner, and applies to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease. The Division of Condominiums, Timeshares, and Mobile Homes (CTMH) under the Department of Business and Professional Regulation has the power and duty to enforce and ensure certain compliance with the Florida Mobile Home Act, which includes running a mediation program and the Florida Mobile Home Relocation Corporation (corporation).

The bill:

- Gives CTMH jurisdiction to enforce certain provisions related to park maintenance and infrastructure, homeowner code compliance and maintenance, and certain unreasonable lot rental agreements.
- Provides that the mobile home park owner and home owners may immediately enter into an agreement to initiate mediation and select their own mediator, as long as the written notice is filed and provided to CTMH of the intent to initiate.
- Requires CTMH to appoint a qualified mediator to conduct mediation proceedings, if the parties have not selected their own mediator, and notify the parties within 20 days after receipt of a mediation petition.
- Provides that if an "aggrieved party" serves a request for mediation and the responding party refuses or fails to participate in mediation, an "aggrieved party" is permitted to file an action in circuit court if the majority of the affected home owners have agreed in writing to file such an action.
- Provides that a live-in health care aide must have ingress and egress to and from the mobile home owner's site without additional rent, fee, or any charge whatsoever, except the cost of a background check if one is required.
- Provides that the live-in health care aide or the aide's assistant does not have any rights of tenancy in the mobile home park.
- Increases relocation payments to the mobile home owner from the corporation when the home owner must move due to a change in use of the land.

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

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through the following divisions:

- 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 (CTMH),
- The Division of Hotels and Restaurants,
- The Division of Pari-mutuel Wagering,
- The Division of Professions,
- The Division of Real Estate,
- The Division of Regulation,
- The Division of Technology, and
- The Division of Service Operations.[1]

CTMH provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.[2] CTMH has limited regulatory authority over the following business entities and individuals:[3]

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction is limited to arbitration of election and recall disputes).

Mobile Home Parks

Chapter 723, F.S., the "Florida Mobile Home Act," addresses the unique relationship between a mobile home owner and a mobile home park owner.[4] The provisions in Ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[5]

CTMH has the power and duty to enforce and ensure compliance with the Florida Mobile Home Act relating to the rental, development, and sale of mobile home parks. However, CTMH does not have the power or duty to enforce mobile home park rules and regulations or to enforce certain provisions related to park maintenance and infrastructure, homeowner code compliance and maintenance, and certain unreasonable lot rental agreements.[6]

CTMH may adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., relating to the requirements in the Administrative Procedures Act for the adoption of rules by agencies, to implement and enforce the provisions of ch. 723, F.S, including rules to authorize amendments to an approved prospectus or

[1] S. 20.165, F.S.
[2] Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/, (last visited Mar. 19, 2021).
[3] *Id*.
[4] S. 723.004, F.S.
[5] S. 723.002(1), F.S.
[6] As outlined in ss. 723.022, 723.023, and 723.033, F.S.

offering circular and to establish a category of minor violations of ch. 723, F.S., or rules promulgated pursuant thereto.[7] CTMH may also adopt rules for mediation procedures.[8]

Chapter 723.003, F.S., provides the following relevant definitions:

- "Mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.[9]
- "Mobile home owner," "mobile homeowner," "home owner," or "homeowner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.[10]

Mobile Home Park Rent Increases

The mobile home park owner may increase the rental amount upon the expiration of the assumed rental agreement "in an amount deemed appropriate by the mobile home park owner."[11] The park owner must give affected mobile home owners and the board of directors of the homeowners' association, if one has been formed, at least a 90-day notice of a lot rental increase.[12]

Upon the sale of a mobile home on a rented lot, the amount of a lot rental increase is to be disclosed and agreed to by the purchaser by executing a rental agreement that sets forth the new lot rental amount.[13] A lot rental amount may not be increased during the term of a rental agreement. However, if the rental agreement is for a term of more than 12 months, the lot rental amount may be increased during the rental term but not more frequently than annually. Pass-through charges[14] may also be increased during the term of the rental agreement.[15]

Lot rental increases may not be arbitrary or discriminatory between similarly situated tenants in the park, and the lot rental may not increase during the term of the rental agreement.[16] However, the mobile home park owner may pass on, at any time during the term of the rental agreement, ad valorem property taxes and utility charges, or increases of either, if the passing on of these costs was disclosed prior to the tenancy.[17]

A park owner must give written notice to each affected mobile home owner and the board of directors of the homeowners' association, if one has been formed, at least 90 days before any increase in the lot rental amount or reduction in services or utilities provided by the park owner or change in rules and regulations. [18] The notice must identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner must make the names and addresses available upon request.[19]

A committee of homeowners and the park owner must meet no later than 60 days before the effective date of a rent increase to discuss the reasons for the increase. The homeowners' committee may consist of no more than five people, who are mobile homeowners in the park and who are designated by a majority of the owners or by the board of directors of the homeowners' association if formed as

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[7] *See* ss. 723.006(7), (8), (9), and (10), F.S.
[8] S. 723.038, F.S.
[9] S. 723.003(12), F.S.
[10] S. 723.003(11), F.S.
[11] S. 723.059(4), F.S.
[12] S. 723.037(1), F.S.
[13] S. 723.031(5), F.S.
[14] S. 723.003(17), F.S, defines the term "pass-through charge" to mean "the mobile home owner's proportionate share of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement, which may include the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities."
[15] S. 723.031(5)(b), F.S.
[16] S. 723.031(5), F.S.
[17] S. 723.031(5)(c), F.S.
[18] S. 723.037(1), F.S.
[19] *Id.*

provided under s. 723.075, F.S.[20] At the meeting, the park owner or subdivision developer must in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed.[21]

Dispute Resolution

If the meeting regarding a rent increase does not resolve the issue, then additional meetings may be requested. Section 723.037(4), F.S. provides that, if subsequent meetings are unsuccessful, within 30 days of the last scheduled meeting, the mobile home owners may petition CTMH to initiate mediation if a majority of the affected have designated, in writing, that:[22]

- The rental increase is unreasonable;
- The rental increase has made the lot rental amount unreasonable;
- The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or
- The change in the rules and regulations is unreasonable.

Within 30 days of the last scheduled meeting, a park owner may also petition CTMH for mediation of the dispute.[23]

If the mediation does not successfully resolve the dispute, then the parties may file an action in circuit court to challenge the rental increase.[24] The court may refer the action to nonbinding arbitration pursuant to s. 44.103, F.S.

Section 723.038, F.S., provides that, upon receipt of the petition from either party, CTMH must appoint a qualified mediator to conduct mediation proceedings unless the parties timely notify CTMH in writing that they have selected a mediator.

The person appointed by CTMH to serve as mediator must be a qualified mediator from a list of circuit court mediators in each judicial circuit and who has met training and educational requirements established by the Supreme Court. If such mediators are not available, CTMH may select a mediator from the list maintained by the Florida Growth Management Conflict Resolution Consortium.[25]

Within 20 days of receiving a petition to mediate a dispute, CTMH must notify the parties that a mediator has been appointed by FTMH. The parties may accept the mediator appointed by CTMH or, within 30 days, select a mediator to mediate the dispute.[26]

The parties may agree to select their own mediator to be governed by the rules of procedure established by CTMH. The parties may agree to waive mediation, or the petitioning party may withdraw the petition prior to mediation. Upon the conclusion of the mediation, the mediator must notify CTMH that the mediation has been concluded.[27]

The resolution of a dispute arising from a mediation may not be deemed to be final agency action. However, either party may initiate an action in the circuit court to enforce a resolution or agreement arising from a mediation proceeding which has been reduced to writing. The circuit court must consider

[20] S. 723.037(4)(a), F.S.
[21] S. 723.037(4)(b), F.S.
[22] S. 723.037(5)(a), F.S.
[23] S. 723.037(5)(b), F.S.
[24] Ss. 723.038 and 723.0381, F.S.
[25] S. 1004.59, F.S., establishes the Florida Conflict Resolution Consortium at Florida State University "to reduce the public and private costs of litigation; resolve public disputes, including those related to growth management issues, more quickly and effectively; and improve intergovernmental communications, cooperation, and consensus building." *See* Florida Conflict Resolution Consortium at https://consensus.fsu.edu/index.html (last visited Jan. 23, 2024).
[26] S. 723.038(4), F.S.
[27] S. 723.038(5), F.S.

such resolution or agreement made during the mediation to be a contract for the purpose of providing a remedy to the complaining party.[28]

If mediation does not resolve the dispute, either party may file an action in the circuit court.[29]

Mobile Home Relocation

In 2001, the Legislature created the Florida Mobile Home Relocation Corporation (corporation) in s. 723.0611, F.S., to provide for the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park. [30] Specifically, s. 723.0612, F.S., provides for relocation expenses to be paid from the corporation to the mobile home owner from the Florida Mobile Home Relocation Trust Fund (fund).[31]

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or $3,000 for a single-section mobile home or $6,000 for a multi-section mobile home, whichever is less.[32]

In lieu of collecting moving expenses from the corporation, a mobile home owner may elect to abandon the home and collect payment from the corporation in the amount of $1,375 for a single section mobile home and $2,750 for a multi-section mobile home.[33] Upon election of abandonment, the mobile home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.[34] The mobile home park owner is required to pay the corporation an amount equal to the amount the mobile home owner is entitled to receive from the corporation.[35]

The mobile home park owner is required to pay the corporation an amount equal to the amount the mobile home owner is entitled to receive from the corporation.[36]

The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if: [37]

- The mobile home owner is moved to another space in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home in the park; or
- The mobile home owner had an eviction action for nonpayment of lot rental amount filed against him or her prior to the mailing date of the change in the use of land.

The Mobile Home Relocation Trust Fund has a current balance of $5,671,376.86: Payouts from the fund for the past five fiscal years are as follows:[38]

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Total Paid Out	$68,250	$141,500	$9,875	$4,125	$29,125
Number of Payouts	30	61	4	2	16

[28] S. 723.038(6), F.S.
[29] S. 723.0381(1), F.S.
[30] Ch. 2001-227, L.O.F.
[31] Ss. 723.007(2), 723.0612(2) and (7), F.S.
[32] S. 723.0612(1), F.S.
[33] S. 723.0612(7), F.S.
[34] *Id.*
[35] S. 723.0612(7), F.S.
[36] S. 723.0612(7), F.S.
[37] Ss. 723.0612(2) and (7), F.S.
[38] Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Florida Mobile Home Relocation Trust Fund (Jan. 30, 2024),

Invitees

An invitee[39] of a mobile home owner may enter or leave the home owner's site without the home owner or invitee being required to pay additional rent, a fee, or any charge whatsoever. Any mobile home park rule or regulation is null and void if it provides fees or charges to the contrary to this right of access.[40]

All guests, family members, or invitees of a mobile home owner are required to abide by properly promulgated rules and regulations.

Section 723.051(3), F.S., provides that an "invitee" is a person whose stay at the request of a mobile home owner does not exceed 15 consecutive days or 30 total days per year, unless such person has the permission of the park owner or unless permitted by a properly promulgated rule or regulation. The spouse of a mobile home owner shall not be considered an invitee.

Live-in Aides

The Fair Housing Act requires owners and landlords to make reasonable accommodations if the accommodation may be necessary to ensure that a person with a disability has equal opportunity to use and enjoy the dwelling. An example of a reasonable accommodation is not counting a live-in aide as an additional tenant or guest.[41]

A reasonable accommodation is a change, exception, adaptation or modification to a policy, program or service that allows a person with a disability to use and enjoy a dwelling. The term also applies to public and common use spaces.

In general, a live-in aide is a person who resides with one or more elderly persons, near-elderly persons, or persons with disabilities, and who:[42]

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Effect of the Bill

The bill gives CTMH jurisdiction to enforce certain provisions related to park maintenance and infrastructure, homeowner code compliance and maintenance, and certain unreasonable lot rental agreements in ss. 723.022, 723.023, and 723.033, F.S.

The bill provides that the mobile home park owner and home owners may immediately enter into an agreement to initiate mediation and select their own mediator, as long as a written notice of the intent to initiate mediation of the dispute has been filed with CTMH.

The bill provides that a mediator selected by the parties:

- Must be a qualified mediator selected from the list of circuit court mediators in each judicial circuit or the list maintained by the Florida Growth Management Conflict Resolution Consortium.
- Has judicial immunity in the same manner and to the same extent as a judge.

The bill requires CTMH to appoint a qualified mediator to conduct mediation proceedings and notify the parties within 20 days after receipt of a petition, if the parties have not selected their own mediator.

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[39] Black's Law Dictionary (11th ed. 2019) defines the term "invitee" to mean "someone who has an express or implied invitation to enter or use another's premises, such as a business visitor or a member of the public to whom the premises are held open. The occupier has a duty to inspect the premises and to warn the invitee of dangerous conditions."
[40] S. 723.051(1), F.S.
[41] Disability Rights Florida, *Fair Housing Act*, https://disabilityrightsflorida.org/disability-topics/disability_topic_info/fair_housing_act (last visited Jan. 30, 2024).
[42] For example, *see* 24 C.F.R § 5.403

The bill provides that if an “aggrieved party” serves a request for mediation and the responding party refuses or fails to participate in mediation, an “aggrieved party” is permitted to file an action in circuit court after the majority of the affected home owners have agreed in writing to file an action. The term “aggrieved party” is not defined in the bill.

Related to live-in aides and their assistants, the bill provides that:

- A live-in health care aide or the aide's assistant, as provided for in the federal Fair Housing Act, must have ingress and egress to and from the mobile home owner's site without the mobile home owner, live-in health care aide, aide's assistant, or invitee being required to pay additional rent, a fee, or any charge whatsoever, except that the mobile home owner must pay the cost of a background check for the live-in health care aide or the aide's assistant if one is required.
- The live-in health care aide or the aide's assistant does not have any rights of tenancy in the mobile home park.
- The mobile home owner must provide the name of the live-in health care aide or the aide's assistant to the park owner or park manager and the information required to conduct the background check if one is required.
- The mobile home owner is responsible for removing the live-in health care aide or the aide's assistant and covering the costs associated with such removal.

The bill clarifies the purpose of the corporation is to address voluntary closures of mobile home parks due to a change in the use of the land.

The bill increases the relocation payments to the mobile home owner from the corporation:

- If a mobile home owner is required to move due to a change in use of the land, when the fixed payments are less than the actual moving expenses, to:
  - $6,500 for a single-section mobile home, from $3,000.
  - $11,500 for a multisection mobile home, from $6,000.
- If a mobile home owner abandons the mobile home in the mobile home park, to:
  - $5,000 for a single section, from $1,375.
  - $7,000 for a multisection, from $2,750.

The bill allows the moving contractor who moves a mobile homeowner related to relocation to redeem the voucher from the corporation for up to 2 years after the date of issuance.

The bill limits what a park owner must pay to a mobile home owner who chooses abandonment, to $1,375 for a single section, and $2,750 for a multisection, instead of requiring the park owner to match the payment made by the corporation.

The bill requires CTMH to adopt rules to enforce the bill.

B. SECTION DIRECTORY:

Section 1: Amends s. 723.005, F.S.; relating to applicability.
Section 2: Amends s. 723.037, F.S.; relating to options for mediation.
Section 3: Amends s. 723.038, F.S.; providing requirements and procedures for mediation.
Section 4: Amends s. 723.0381, F.S.; limiting when certain actions may be filed in circuit court.
Section 5: Amends s. 723.051, F.S.; relating to live-in health aides.
Section 6: Amends s. 723.0611, F.S.; providing a purpose for the Florida Mobile Home Relocation Corporation.
Section 7: Amends s. 723.0612, F.S.; increasing available payouts amount from the Florida Mobile Home Relocation Corporation.
Section 8: Requires CTMH to adopt rules.
Section 9: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill will increase expenditures by CTMH for enforcement due to increasing the jurisdiction CTMH has related to mobile home parks.

   The bill will likely increase expenditures from the fund as certain payments have increased.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more mobile home owners to have a live-in aide without an additional charge.

D. FISCAL COMMENTS:

The Mobile Home Relocation Trust Fund has a current balance of $5,671,376.86. An accounting of the fund is as follows:[43]

Revenue to the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Park Owner Fees	$54,638	$134,581	$26,625	$2,750	$16,500
DHSMV Surcharge	$438,631	$378,405	$406,433	$412,814	$401,807
CTMH Surcharge	$282,885	$283,353	$282,390	$294,231	$282,455
Interest	$74,630	$115,712	$67,082	$33,827	$78,673
Total Revenue	$850,784	$912,051	$782,530	$743,622	$779,435

Expenditures from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Transferred to corporation	$338,450	$422,000	$357,086	$284,573	$241,592
Service Charge to General Revenue	$65,960	$74,671	$64,334	$56,773	$61,901
Interest Assessment	$3,598	$4,241	$4,655	$4,770	$5,358
Total Expenditures	$408,008	$500,912	$426,075	$346,116	$308,788

Payouts from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Total Paid Out	$68,250	$141,500	$9,875	$4,125	$29,125
Number of Payouts	30	61	4	2	16

III. COMMENTS

[43] Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Florida Mobile Home Relocation Trust Fund (Jan. 30, 2024),

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 CTMH to adopt rules to enforce the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is unclear if the mobile home park owners and home owners may initiate mediation proceedings before the last scheduled meeting of the lot rent increase committee under s. 723.037(4), or if they have to wait for such meetings to conclude.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to mobile home park lot tenancies; amending s. 723.005, F.S.; revising the powers and duties of the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation; amending s. 723.037, F.S.; authorizing a mobile home park owner, or his or her representative, and the mobile home owners to immediately agree to select a mediator after filing a written notice with the division; amending s. 723.038, F.S.; authorizing the parties to a dispute to immediately agree to select a mediator and initiate mediation proceedings after filing a written notice with the division; requiring the division to appoint a qualified mediator and notify the parties within a specified timeframe; conforming a provision to changes made by the act; amending s. 723.0381, F.S.; authorizing either party to a dispute to file an action in the circuit court under certain circumstances; amending s. 723.051, F.S.; providing that a live-in health care aide, or his or her assistant, must have ingress and egress to and from a mobile home owner's site without such owner, aide, or assistant being required to pay additional rent, a fee, or any charge; requiring a mobile home owner to

pay for a background check for the live-in health care aide or his or her assistant if required; specifying that a live-in health care aide or his or her assistant does not have any rights of tenancy in the mobile home park; requiring a mobile home owner to provide certain information to the park owner or park manager; requiring the mobile home owner to remove the live-in health care aide or his or her assistant and cover certain costs associated with such removal if necessary; amending s. 723.0611, F.S.; providing the purpose of the Florida Mobile Home Relocation Corporation; amending s. 723.0612, F.S.; revising the amounts of certain expenses that the corporation is required to pay the mobile home owner under certain circumstances; providing that certain vouchers are redeemable for a specified time period; specifying the amounts that a park owner must pay the corporation under certain circumstances; requiring the division to adopt rules; providing an effective date.

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

Section 1. Section 723.005, Florida Statutes, is amended to read:

723.005 Regulation by division.—The division has the power

and duty to enforce and ensure compliance with each section ~~the provisions~~ of this chapter and the rules adopted ~~promulgated~~ pursuant hereto relating to the rental, development, and sale of mobile home parks. However, the division does not have the power or duty to enforce mobile home park rules and regulations ~~or to enforce the provisions of ss. 723.022, 723.023, and 723.033~~.

Section 2. Paragraphs (c) and (d) of subsection (5) of section 723.037, Florida Statutes, are redesignated as paragraphs (d) and (e), respectively, paragraph (b) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

723.037 Lot rental increases; reduction in services or utilities; change in rules and regulations; mediation.—

(5)

(b) A park owner, within the same time period, may also petition the division to initiate mediation of the dispute pursuant to s. 723.038.

(c) As an alternative, after filing a written notice with the division of the intent to initiate mediation of the dispute, the park owner, or his or her representative, and the mobile home owners may immediately agree to select a mediator pursuant to s. 723.038(2) and (4).

The purpose of this subsection is to encourage discussion and evaluation by the parties of the comparable mobile home parks in

the competitive market area. The requirements of this subsection are not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions before ~~prior to~~ the parties proceed ~~proceeding~~ to litigation of any dispute.

Section 3. Subsections (1), (2), (4), and (9) of section 723.038, Florida Statutes, are amended to read:

723.038 Dispute settlement; mediation.—

(1) Either party may petition the division to appoint a mediator and initiate mediation proceedings or, after filing a written notice with the division, the parties may immediately agree to select a mediator and initiate mediation proceedings pursuant to subsections (2) and (4).

(2) Within 20 days after receipt of a petition, the division ~~upon petition~~ shall appoint a qualified mediator to conduct mediation proceedings and notify the parties, unless the parties timely notify the division in writing that they have selected a mediator. A person appointed by the division or selected by the parties must ~~shall~~ be a qualified mediator from a list of circuit court mediators in each judicial circuit who has met training and educational requirements established by the Supreme Court. If such mediators are not available, the division or the parties may select a mediator from the list maintained by the Florida Growth Management Conflict Resolution Consortium. The division shall adopt ~~promulgate~~ rules of procedure to govern

such proceedings in accordance with the rules of practice and procedure adopted by the Supreme Court. The division shall also establish, by rule, the fee to be charged by a mediator which shall not exceed the fee authorized by the circuit court.

(4) After the last scheduled meeting under s. 723.037(4) and filing a written notice with the division, the parties to a dispute may immediately agree to select a mediator and initiate mediation proceedings pursuant to this section ~~Upon receiving a petition to mediate a dispute, the division shall, within 20 days, notify the parties that a mediator has been appointed by the division~~. The parties may accept the mediator appointed by the division or, within 30 days, select a mediator to mediate the dispute in accordance with subsection (2). The parties shall each pay a $250 filing fee to the mediator appointed by the division or selected by the parties~~,~~ within 30 days after the division notifies the parties of the appointment of the mediator. The $250 filing fee shall be used by the mediator to defray the hourly rate charged for mediation of the dispute. Any portion of the filing fee not used shall be refunded to the parties.

(9) A mediator selected or appointed pursuant to this section has ~~shall have~~ judicial immunity in the same manner and to the same extent as a judge.

Section 4. Subsection (1) of section 723.0381, Florida Statutes, is amended to read:

723.0381 Civil actions; arbitration.—

(1) If an aggrieved party serves a request for mediation and the responding party refuses or fails to participate in mediation, or if ~~after~~ mediation of a dispute ~~pursuant to s. 723.038~~ has failed to provide a resolution of the dispute, either party may file an action in the circuit court if a majority of the affected mobile home owners have agreed to file an action in writing.

Section 5. Subsection (1) of section 723.051, Florida Statutes, is amended to read:

723.051 Invitees and live-in health care aides; rights and obligations.—

(1) An invitee of a mobile home owner, or a live-in health care aide or the aide's assistant as provided for in the federal Fair Housing Act, must ~~shall~~ have ingress and egress to and from the mobile home owner's site without the mobile home owner, live-in health care aide, aide's assistant, or invitee being required to pay additional rent, a fee, or any charge whatsoever, except that the mobile home owner must pay the cost of a background check for the live-in health care aide or the aide's assistant if one is required. Any mobile home park rule or regulation providing for fees or charges contrary to the terms of this section is ~~null and~~ void. The live-in health care aide or the aide's assistant does not have any rights of tenancy in the mobile home park and the mobile home owner must provide

the name of the live-in health care aide or the aide's assistant to the park owner or park manager and the information required to conduct the background check if one is required. If necessary, the mobile home owner is responsible for removing the live-in health care aide or the aide's assistant and covering the costs associated with such removal.

Section 6. Paragraph (a) of subsection (1) of section 723.0611, Florida Statutes, is amended to read:

723.0611 Florida Mobile Home Relocation Corporation.—

(1)(a) There is created the Florida Mobile Home Relocation Corporation to address voluntary closures of mobile home parks due to a change in the use of the land. The corporation shall be administered by a board of directors made up of six members, three of whom shall be appointed by the Secretary of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing mobile home owners in this state, and three of whom shall be appointed by the Secretary of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing the manufactured housing industry in this state. All members of the board of directors, including the chair, shall be appointed to serve for staggered 3-year terms.

Section 7. Paragraph (b) of subsection (1) and subsections (4) and (7) of section 723.0612, Florida Statutes, are amended to read:

723.0612 Change in use; relocation expenses; payments by park owner.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising the mobile home park as set forth in s. 723.061(1)(d) and complies with the requirements of this section, the mobile home owner is entitled to payment from the Florida Mobile Home Relocation Corporation of:

(b) The amount of $6,500 ~~$3,000~~ for a single-section mobile home or $11,500 ~~$6,000~~ for a multisection mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.

(4) The Florida Mobile Home Relocation Corporation must approve payment within 45 days after receipt of the information set forth in subsection (3), or payment is deemed approved. A copy of the approval must be forwarded to the park owner with an invoice for payment. Upon approval, the corporation shall issue a voucher in the amount of the contract price for relocating the mobile home. The moving contractor may redeem the voucher from the corporation following completion of the relocation and upon approval of the relocation by the mobile home owner for up to 2 years after the date of issuance.

(7) In lieu of collecting payment from the Florida Mobile Home Relocation Corporation as set forth in subsection (1), a mobile home owner may abandon the mobile home in the mobile home park and collect $5,000 ~~$1,375~~ for a single section and $7,000

~~$2,750~~ for a multisection from the corporation as long as the mobile home owner delivers to the park owner the current title to the mobile home duly endorsed by the owner of record and valid releases of all liens shown on the title. If a mobile home owner chooses this option, the park owner must ~~shall~~ make payment to the corporation of $1,375 for a single section and $2,750 for a multisection ~~in an amount equal to the amount the mobile home owner is entitled to under this subsection~~. The mobile home owner's application for funds under this subsection requires ~~shall require~~ the submission of a document signed by the park owner stating that the home has been abandoned under this subsection and that the park owner agrees to make payment to the corporation in the amount provided to the home owner under this subsection. However, in the event that the required documents are not submitted with the application, the corporation may consider the facts and circumstances surrounding the abandonment of the home to determine whether the mobile home owner is entitled to payment pursuant to this subsection. The mobile home owner is not entitled to any compensation under this subsection if there is a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her before ~~prior to~~ the mailing date of the notice of change in the use of the mobile home park given pursuant to s. 723.061(1)(d).

Section 8. The Division of Florida Condominiums,

Timeshares, and Mobile Homes of the Department of Business and Professional Regulation shall adopt rules to carry out the requirements of this act.

Section 9. This act shall take effect July 1, 2024.

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 613 by Rep. Stark
Mobile Home Park Lot Tenancies

AMENDMENT SUMMARY
February 1, 2024

Amendment 1 by Rep. Stark (strike-all):

- Removes provisions giving DBPR jurisdiction over certain park and owner maintenance and certain unreasonable lot rental agreements.
- Clarifies that, for the DBPR mediation program for mobile home parks:
    - An agreement between the park owners and the home owners to immediately select a mediator and initiate mediation proceedings must come after the last scheduled meeting of the park committee to solve the dispute.
    - All dispute petitions must be filed with DBPR to make sure they conform to DBPR-requirements for such petitions.
    - A civil action may not be filed until the dispute has been through mediation.
- Allows a park owner to submit objections to a petition within 10 days if it being filed with DBPR.
- Requires DBPR:
    - After receiving objections to a petition from a park owner, to appoint a mediator within 10 days after receiving a petition from a park owner, if one has not been selected by the parties.
    - To assign a mediator upon receipt of a petition, if one has not already been selected by the parties.
    - Notify the parties within 20 days after appointing a mediator.
- Provides requirements for what information and documents must be in a petition submitted to DBPR.
- Allows DBPR to dismiss a deficient petition.

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 Stark offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Present paragraphs (b), (c), and (d) of subsection (5) of section 723.037, Florida Statutes, are redesignated as paragraphs (c), (e), and (f), respectively, new paragraphs (b) and (d) and paragraphs (g) and (h) are added to that subsection, and present paragraph (b) of that subsection is amended, to read:

723.037 Lot rental increases; reduction in services or utilities; change in rules and regulations; mediation.—

(5)

(b) A petition for mediation must be filed with the

division in all cases for a determination of adequacy and conformance of the petition with the requirements of paragraph (a). Upon filing the petition with the division, the mobile home owners must provide to the park owner, by certified mail, return receipt requested, a copy of the following:

1. The homeowners' petition for mediation on a form adopted by rule of the division;

2. The written designation required by this subsection, which must include lot identification for each signature;

3. The notice or notices of lot rental increase, reduction in services or utilities, or change in rules and regulations that is being challenged as unreasonable; and

4. The records that verify the selection of the homeowners' committee in accordance with subsection (4).

(c) ~~(b)~~ A park owner, within the same time period, may also petition the division to initiate mediation of the dispute pursuant to s. 723.038.

(d) As an alternative to the appointment of a mediator by the division, the park owner and the mobile home owners may, by mutual agreement, select a mediator pursuant to s. 723.038(2) and (4).

(g) The division shall dismiss a petition for mediation in the event that the park owner and mobile home owners fail to comply with this section.

(h) Within 10 days after receipt of the petition from the

homeowners, the park owner may file objections to the petition with the division. The division shall dismiss any petition that is not timely filed, that does not meet the requirements of this subsection, or that is otherwise found deficient by the division. If a mediator has not been selected pursuant to paragraph (d), the division must assign a mediator within 10 days after receipt of the petition by the park owner.

The purpose of this subsection is to encourage discussion and evaluation by the parties of the comparable mobile home parks in the competitive market area. The requirements of this subsection are not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions prior to the parties proceeding to litigation of any dispute.

Section 2. Subsections (1), (2), (4), and (9) of section 723.038, Florida Statutes, are amended to read:

723.038 Dispute settlement; mediation.—

(1) Either party may petition the division to appoint a mediator and initiate mediation proceedings, or the parties may agree to immediately select a mediator and initiate mediation proceedings pursuant to the criteria outlined in subsections (2) and (4).

(2) The division, upon receipt of a petition, shall appoint a qualified mediator to conduct mediation proceedings and notify

the parties within 20 days after such appointment, unless the parties timely notify the division in writing that they have selected a mediator. A person appointed by the division or selected by the parties must ~~shall~~ be a qualified mediator from a list of circuit court mediators in each judicial circuit who has met training and educational requirements established by the Supreme Court. If such mediators are not available, the division or the parties may select a mediator from the list maintained by the Florida Growth Management Conflict Resolution Consortium. The division shall promulgate rules of procedure to govern such proceedings in accordance with the rules of practice and procedure adopted by the Supreme Court. The division shall also establish, by rule, the fee to be charged by a mediator which shall not exceed the fee authorized by the circuit court.

(4) Following the date of the last scheduled meeting held pursuant to s. 723.037(4), the parties to a dispute may agree immediately to select a mediator and initiate mediation proceedings pursuant to this section ~~Upon receiving a petition to mediate a dispute, the division shall, within 20 days, notify the parties that a mediator has been appointed by the division~~. The parties may accept the mediator appointed by the division or, within 30 days, select a mediator to mediate the dispute pursuant to subsection (2). The parties shall each pay a $250 filing fee to the mediator appointed by the division or selected by the parties, within 30 days after the division notifies the

parties of the appointment of the mediator. The $250 filing fee shall be used by the mediator to defray the hourly rate charged for mediation of the dispute. Any portion of the filing fee not used shall be refunded to the parties.

(9) A mediator appointed by the division or selected by the parties pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge.

Section 3. Subsection (1) of section 723.0381, Florida Statutes, is amended to read:

723.0381 Civil actions; arbitration.—

(1) A civil action may not be initiated unless the dispute has been submitted to mediation pursuant to s. 723.037(5). After mediation of a dispute pursuant to s. 723.038 has failed to provide a resolution of the dispute, either party may file an action in the circuit court.

Section 4. Subsection (1) of section 723.051, Florida Statutes, is amended to read:

723.051 Invitees; rights and obligations.—

(1) An invitee of a mobile home owner, or a live-in health care aide as provided for in the Federal Fair Housing Act, must ~~shall~~ have ingress and egress to and from the mobile home owner's site without the mobile home owner, ~~or~~ invitee, or live-in health care aide being required to pay additional rent, a fee, or any charge whatsoever, except that the mobile home owner must pay the cost of a background check for the live-in health

117 care aide if one is required. Any mobile home park rule or
118 regulation providing for fees or charges contrary to the terms
119 of this section is null and void. The live-in health care aide
120 does not have any rights of tenancy in the park, and the mobile
121 home owner must notify the park owner or park manager of the
122 name of the live-in health care aide and provide the information
123 required to have the background check, if one is necessary. The
124 mobile home owner has the responsibility to remove the live-in
125 health care aide should it become necessary and to cover the
126 costs associated with the removal.
127 Section 5. Paragraph (a) of subsection (1) of section
128 723.0611, Florida Statutes, is amended to read:
129 723.0611 Florida Mobile Home Relocation Corporation.—
130 (1)(a) There is created the Florida Mobile Home Relocation
131 Corporation. The purpose of the corporation is to address the
132 voluntary closure of mobile home parks due to a change in use of
133 the land. The corporation shall be administered by a board of
134 directors made up of six members, three of whom shall be
135 appointed by the Secretary of Business and Professional
136 Regulation from a list of nominees submitted by the largest
137 nonprofit association representing mobile home owners in this
138 state, and three of whom shall be appointed by the Secretary of
139 Business and Professional Regulation from a list of nominees
140 submitted by the largest nonprofit association representing the
141 manufactured housing industry in this state. All members of the

board of directors, including the chair, shall be appointed to serve for staggered 3-year terms.

Section 6. Subsections (1), (4), and (7) of section 723.0612, Florida Statutes, are amended to read:

723.0612 Change in use; relocation expenses; payments by park owner.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising the mobile home park as set forth in s. 723.061(1)(d) and complies with the requirements of this section, the mobile home owner is entitled to payment from the Florida Mobile Home Relocation Corporation of:

(a) The amount of actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or

(b) The amount of $6,500 ~~$3,000~~ for a single-section mobile home or $11,500 ~~$6,000~~ for a multisection mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.

(4) The Florida Mobile Home Relocation Corporation must approve payment within 45 days after receipt of the information set forth in subsection (3), or payment is deemed approved. A copy of the approval must be forwarded to the park owner with an invoice for payment. Upon approval, the corporation shall issue a voucher in the amount of the contract price for relocating the mobile home. The moving contractor may redeem the voucher from

the corporation following completion of the relocation and upon approval of the relocation by the mobile home owner for up to 2 years after the date of issuance.

(7) In lieu of collecting payment from the Florida Mobile Home Relocation Corporation as set forth in subsection (1), a mobile home owner may abandon the mobile home in the mobile home park and collect $3,000 ~~$1,375~~ for a single section and $5,000 ~~$2,750~~ for a multisection from the corporation as long as the mobile home owner delivers to the park owner the current title to the mobile home duly endorsed by the owner of record and valid releases of all liens shown on the title. If a mobile home owner chooses this option, the park owner must ~~shall~~ make payment to the corporation of $1,375 for a single section and $2,750 for a multisection ~~in an amount equal to the amount the mobile home owner is entitled to under this subsection~~. The mobile home owner's application for funds under this subsection requires ~~shall require~~ the submission of a document signed by the park owner stating that the home has been abandoned under this subsection and that the park owner agrees to make payment to the corporation in the amount provided to the home owner under this subsection. However, in the event that the required documents are not submitted with the application, the corporation may consider the facts and circumstances surrounding the abandonment of the home to determine whether the mobile home owner is entitled to payment pursuant to this subsection. The

mobile home owner is not entitled to any compensation under this subsection if there is a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in the use of the mobile home park given pursuant to s. 723.061(1)(d).

Section 7. The division shall adopt rules to implement and administer this act.

Section 8. This act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert: An act relating to mobile home park lot tenancies; amending s. 720.037, F.S.; requiring that a petition for mediation be filed with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation to determine the adequacy and conformance of the homeowners' petition to initiate mediation; requiring mobile home owners to provide specified documents to the park owner in a specified manner; authorizing the park owner and mobile home owners, by mutual agreement, to select a mediator pursuant to specified provisions; requiring the division to dismiss a petition for mediation under certain circumstances; authorizing the park owner to file objections to the petition for mediation

within a specified timeframe; requiring the division to assign a mediator in certain circumstances within a specified timeframe; amending s. 723.038, F.S.; authorizing parties to disputes to jointly select a mediator and initiate mediation proceedings; conforming provisions to changes made by the act; making a technical change; amending s. 723.0381, F.S.; prohibiting the initiation of civil action unless the dispute has been submitted to mediation; amending s. 723.051, F.S.; requiring that specified live-in health care aides have ingress and egress to and from a mobile home owner’s site without having to pay charges; providing that the mobile home owner must pay the cost of any necessary background check of such aides; providing that live-in heath care aides have no rights of tenancy in the park; requiring the mobile home owner to notify the park owner or manager of certain information related to such aides; providing that the mobile home owner is responsible for removing such aides if it becomes necessary and must cover related costs; amending s. 723.0611, F.S.; providing the purpose of the Florida Mobile Home Relocation Corporation; amending s. 723.0612, F.S.; revising the amounts a mobile home owner is entitled to receive from the corporation for single-section and multisection mobile homes in certain circumstances; revising the timeframe during which a mobile home moving contractor may redeem a voucher for the contract price for relocating a mobile home; revising the amount a mobile home owner may receive when he or she abandons

the mobile home inside the mobile home park in lieu of collecting payment from the corporation; revising the amount a park owner must pay the corporation under certain circumstances; making technical changes; requiring the division to adopt rules; providing an effective date.

HB 709

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 709 In-store Servicing of Alcoholic Beverages
SPONSOR(S): Rizo
TIED BILLS: **IDEN./SIM. BILLS:** SB 574

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

Regulation of alcohol in Florida is based upon the “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, the distributor obtains the beverages from the manufacturer and then delivers to the vendor, and the vendor makes the ultimate sale to the consumer.

Currently, distributors of wine and beer may provide certain quality control services, or “in-store servicing,” for the products they sell to a vendor, as an exception to the three-tier system, without violating the Beverage Law. However, distributors of liquor may not provide such in-store servicing.

The bill allows distributors of any alcohol products, including liquor-based products, containing less than 6 percent alcohol by volume, to perform in-store servicing for the products they sell to a vendor.

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

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Beverage Law

In Florida, the Beverage Law[1] regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[2] The Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.[3]

Since the repeal of Prohibition, regulation of alcohol in the United States has traditionally been based upon what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages.[4] The manufacturer creates the beverages, the distributor obtains the beverages from the manufacturer and then delivers to the vendor, and the vendor makes the ultimate sale to the consumer.[5]

The license and registration classifications used in the Beverage Law include the following:

- "Manufacturers" are those "licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute."
- "Distributors" are those "licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages."
- "Vendors" are those "licensed to sell alcoholic beverages at retail only" and may not "purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law."[6]

Generally, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail, and manufacturers and distributors are generally prohibited from holding a vendor's license.[7] Manufacturers, distributors, and vendors are generally prohibited from being licensed or having an interest in more than one tier. Limited exceptions, subject to certain conditions, include the ability for a craft brewery to hold a vendor's license (tap room), a restaurant to hold a manufacturer's license (brew pub), and a winery to hold up to three vendor's licenses.[8]

Liquor

"Liquor," "distilled spirits," "spirituous liquors," "spirituous beverages," or "distilled spirituous liquors" mean that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.[9]

Every manufacturer and distributor of liquor beverages:[10]

- Containing 17.259 percent or more of alcohol by volume and not more than 55.780 percent of alcohol by volume, except wines, must pay a tax at the rate of $6.50 per gallon.

[1] Section 561.01(6), F.S., provides that the "The Beverage Law" includes 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] Section 561.01, F.S., defines "alcoholic beverages" as "distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume."
[5] S. 561.14, F.S.
[6] S. 561.14, F.S.
[7] Ss. 561.22(1), 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.
[8] *See* ss. 561.22, 561.24, 561.14(1), and 563.022(14), F.S.
[9] S. 565.01, F.S.
[10] S. 565.12, F.S.

- Containing less than 17.259 percent of alcohol by volume, must pay a tax at the rate provided in Chapter 564, F.S., which outlines tax rates for wine.

In-store Servicing

Distributors of wine and beer or malt beverages may provide certain quality control servicing, or "in-store servicing," of such products sold by the distributor to a vendor, as an exception to the three-tier system, without violating the Beverage Law.

"In-store servicing" for wine means:
- Placing the wine on the vendor's shelves and maintaining the appearance and display of said wine on the vendor's shelves in the vendor's licensed premises;
- Placing the wine in a storage area designated by the vendor, which is located in the vendor's licensed premises;
- Rotation of vinous beverages; and
- Price stamping of vinous beverages in the vendor's licensed premises.[11]

The in-store servicing allowance for wine distributors specifically states that the exception does not apply to liquor.[12]

"In-store servicing" for beer or malt beverages includes, but is not limited to:
- Rotation of malt beverages on the vendor's shelves,
- Rotation and placing of malt beverages in the vendor's coolers,
- Proper stacking and maintenance of appearance and display of malt beverages on vendor's shelves,
- Price-stamping of malt beverages in the vendor's licensed premises, and
- Moving or resetting any product or display in order to display a distributor's own product when authorized by the vendor.[13]

Distributors of liquor may not provide in-store servicing, as there is no provision under the Beverage Law allowing it, and s. 561.42, F.S., prohibits financial aid and assistance of any kind from a distributor to a vendor.

RTD Alcohol Products

Ready-to-drink alcohol products (RTDs) are generally premixed drinks that are ready to be consumed immediately, and typically have a lower alcoholic content compared to traditional liquors.[14] There are generally three categories of RTDs:[15]
- Malt-based. For example:
  - Hard seltzers.
  - Hard tea.
  - Hard kombucha.
- Wine-based. For example:
  - Wines in cans.
  - Wine cocktails in tetra packs.
- Liquor-based. For example:
  - Ready-to-drink cocktails.
  - Seltzers with a spirits spike.

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[11] S. 561.424(2), F.S.
[12] *Id*.
[13] S. 561.423, F.S.
[14] Wildpack Beverage, *RTD Alcohol: How It's Changed The Beverage Industry*, https://wildpackbev.com/rtd-alcohol-how-its-changed-the-beverage-industry/ (last visited Jan. 26, 2024).
[15] Kate Dingwall, *Where Is The Ready-To-Drink Category Headed?*, Forbes, Jul. 27, 2022, https://www.forbes.com/sites/katedingwall/2022/07/27/where-is-the-ready-to-drink-category-headed/?sh=4d07808b4bd1 (last visited Jan. 26, 2024).

- Shooters.

Vendors with beer and wine licenses are allowed to sell liquor-based products, including RTDs, that have less than 6 percent alcohol by volume. Specifically, s. 564.06(5)(b), F.S., provides that all alcohol products, however derived, distilled, mixed, or fermented, and which contain **less than 6 percent** alcohol by volume which are taxed under Chapter 564, F.S.,[16] must be available for purchase and sale[17] by **any licensee** holding a valid license to sell alcoholic beverages for consumption either on or off premises, and nothing contained in the Beverage Law may be construed to prevent such sales.[18]

In 2021, DBPR issued an informational bulletin addressing confusion regarding whether a liquor distributor may provide in-store servicing of RTDs which contain liquor, stating that: [19]

> Despite being classified as liquor under the Beverage Law, many [RTDs] are available for sale in locations authorized to sell beer and wine only, pursuant to…s. 564.06(5)(b), F.S…. The sale of these products in locations not authorized to sell [other] liquor appears to have caused some confusion in the marketplace regarding whether these RTD items are able to be serviced by distributors. Liquor-based RTDs and other [liquor] items…are not eligible for in-store servicing by distributors…. The in-store servicing of such items would be considered a violation of s. 561.42, F.S. As such, it will be necessary for distributors to make a determination based on the product formulation as to whether the product is eligible for instore servicing, or whether servicing of such products could potentially be a violation of the Beverage Law.

The bulletin states that in-store servicing of liquor-based products by the distributor is a violation of the Beverage Law, despite the ability of certain vendors to sell liquor products or RTDs with less than 6 percent alcohol.[20]

Effect of the Bill

The bill allows distributors of any alcohol products, including liquor-based products and RTDs, containing less than 6 percent alcohol by volume, to perform in-store servicing for the products they sell to a vendor. The provision is added to s. 561.42, F.S., as an allowance under the wine in-store servicing provision.

The bill allows the Division to adopt rules to implement the bill.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 561.424, F.S.; relating to in-store servicing of alcohol products.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

[16] This includes all wine, wine products, and beverages containing less than 17.259 percent of alcohol by volume. Ss. 564.06 and 565.12, F.S.
[17] As provided in ss. 563.02 and 564.02, F.S.
[18] S. 564.06(5)(b), F.S.
[19] Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Informational Bulletin 2021-003, http://www.myfloridalicense.com/dbpr/abt/informational_bulletins/2021-003_RTDandInStoreServicing.pdf (last visited Jan. 26, 2024).
[20] *Id.*

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 will allow liquor distributors to ensure that liquor-based RTDs are well maintained in retail locations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill allows DBPR to adopt rules to implement the bill. DBPR may need to amend rule 61A-3.050, F.A.C., relating to special low-proof products.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to in-store servicing of alcoholic beverages; amending s. 561.424, F.S.; revising applicability of provisions regulating in-store servicing of wine to include products with a specified percentage of alcohol; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to adopt rules; providing an effective date.

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

Section 1. Subsection (2) of section 561.424, Florida Statutes, is amended, and subsections (3) and (4) are added to that section, to read:

561.424 Vinous and other beverages; in-store servicing authorized.—

(2) Nothing in s. 561.42 or any other provision of the alcoholic beverage law prohibits ~~shall prohibit~~ a distributor of wine from providing in-store servicing of wine sold by the ~~such~~ distributor to a vendor. As used in this section, the term "in-store servicing" ~~as used herein~~ means~~:~~ placing ~~the~~ wine on the vendor's shelves and maintaining the appearance and display of the ~~said~~ wine on the vendor's shelves in the vendor's licensed premises; placing the wine that is not ~~so~~ shelved or displayed

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

in a storage area designated by the vendor, which is located in the vendor's licensed premises; rotation of vinous beverages; and price stamping of vinous beverages in the vendor's licensed premises. ~~This section shall not apply to distilled spirits.~~

(3) This section does not apply to distilled spirits, but specifically applies to products containing less than 6 percent alcohol by volume as described in s. 564.06(5)(b).

(4) The division may adopt rules to implement this section.

Section 2. This act shall take effect July 1, 2024.

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

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 709 by Rep. Rizo
In-store Servicing of Alcoholic Beverages

AMENDMENT SUMMARY
February 1, 2024

Amendment 1 by Rep. Rizo (strike-all):

- Removes the in-store servicing allowance for distilled spirit products with less than 6% alcohol by volume from the wine provision.
- Creates a new provision to allow in-store servicing for any distilled spirit product.

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 Rizo offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 561.424, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

561.424 Vinous beverages; in-store servicing authorized.—

(2) Nothing in s. 561.42 or any other provision of the alcoholic beverage law prohibits ~~shall prohibit~~ a distributor of wine from providing in-store servicing of wine sold by the ~~such~~ distributor to a vendor.

(3) As used in this section, the term "in-store servicing" ~~as used herein~~ means:

(a) Placing ~~the~~ wine on the vendor's shelves and maintaining the appearance and display of the ~~said~~ wine on the vendor's shelves in the vendor's licensed premises.~~;~~

(b) Placing the wine that is not ~~so~~ shelved or displayed in a storage area designated by the vendor, which is located in the vendor's licensed premises.~~;~~

(c) Rotating ~~rotation of~~ vinous beverages.~~; and~~

(d) Price stamping ~~of~~ vinous beverages in the vendor's licensed premises. ~~This section shall not apply to distilled spirits.~~

Section 2. Section 561.425, Florida Statutes, is created to read:

561.425 Distilled spirits; in-store servicing authorized.—

(1) Nothing in s. 561.42 or any other provision of the alcoholic beverage law prohibits a distributor of distilled spirits from providing in-store servicing of distilled spirits sold by the distributor to a vendor.

(2) As used in this section, the term "in-store servicing" means:

(a) Placing distilled spirits, including distilled spirits located in a storage area designated by the vendor, on the vendor's shelves and maintaining the appearance and display of the distilled spirits on the vendor's shelves in the vendor's licensed premises.

(b) Placing the distilled spirits in displays.

(c) Placing the distilled spirits that are not shelved or displayed in a storage area designated by the vendor, which is located in the vendor's licensed premises.

(d) Rotating distilled spirits.

(e) Price stamping distilled spirits in the vendor's licensed premises.

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

Remove lines 3-8 and insert:
beverages; amending s. 561.424, F.S.; conforming provisions to changes made by the act; creating s. 561.425, F.S.; authorizing the in-store servicing of distilled spirits sold by a distributor to a vendor; defining the term "in-store servicing";

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 741 Town of Hillsboro Beach, Broward County
SPONSOR(S): LaMarca
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		Phelps	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 exception to ch. 561, F.S., permitting DBPR to issue a special alcoholic beverage license to any residential condominium in the Town of Hillsboro Beach, Broward County that meets the following requirements:

- Has no fewer than 50 condominium units in a single building or multiple buildings under the control and operation of the same association of condominium owners;
- Is owned by or rented to non-transients; and
- Is licensed as a food service establishment under ch. 381 or ch. 509, F.S.

The bill provides that the special alcoholic beverage license may only be issued to the entity managing the food and beverage operations of the condominium. The bill limits sales under the license to residents or guests of the condominium for on-premises consumption during the hours where food is sold.

The bill provides that DBPR has the authority to regulate and supervise residential condominiums for which special alcoholic beverage licenses have been issued. The division may revoke or suspend any license for violations of the beverage laws and rules and regulations of this state.

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 exception to ch. 561, F.S., permitting DBPR to issue a special alcoholic beverage license to any residential condominium in the Town of Hillsboro Beach, Broward County, that meets the following requirements:

- Has no fewer than 50 condominium units in a single building or multiple buildings under the control and operation of the same association of condominium owners;
- Is owned by or rented to non-transients;[8] and
- Is licensed as a food service establishment under ch. 381 or ch. 509, F.S.

The bill provides that the special alcoholic beverage license may only be issued to the person, company or corporation that manages the food and beverage operations of the condominium, is limited

[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] Nontransient occupancy means "any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest." S. 509.013(14), F.S. "Nontransients" are guests in nontransient occupancy. S. 509.013(16), F.S. Essentially, nontransients are tenants.

to the provision of alcoholic beverages for consumption on the premises only to residents and their nonresident guests and does not authorize the condominium to sell alcoholic beverages by the package for off-premises consumption or to sell alcoholic beverages after the hours of serving or consumption of food have elapsed.

The bill provides that DBPR has the authority to regulate and supervise residential condominiums for which special alcoholic beverage licenses have been issued. The division may revoke or suspend any license for violations of the beverage laws and rules and regulations of this state.

B. SECTION DIRECTORY:

Section 1: Creates an exception to general law to a residential condominium in the Town of Hillsboro Beach, Broward County.

Section 2: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? November 5, 2023

WHERE? The *Sun-Sentinel*, a daily newspaper of general circulation published in Broward, Palm Beach, and Miami-Dade 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 Town of Hillsboro Beach, Broward County; requiring the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue a special alcoholic beverage license to a residential condominium that meets certain requirements; limiting the issuance of such license and the provision and sale of alcoholic beverages under such license; authorizing the division to regulate and supervise residential condominiums to which such licenses have been issued; authorizing the division to revoke or suspend such licenses under certain circumstances; providing an effective date.

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

Section 1. (1) Notwithstanding s. 561.20(2), Florida Statutes, or any other provision of law, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation shall issue a special alcoholic beverage license to a residential condominium in the Town of Hillsboro Beach, Broward County, which:

(a) Has no fewer than 50 condominium units in a single building or multiple buildings under the control and operation

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

of the same association of condominium owners.

(b) Is wholly owned by or rented to nontransients.

(c) Is licensed as a food service establishment under chapter 381 or chapter 509, Florida Statutes, and regularly offers food and beverage amenities to condominium residents.

(2) A special alcoholic beverage license issued under this section:

(a) Shall be issued only to the person, company, or corporation that manages the food and beverage operations of the condominium and not to the association of condominium owners.

(b) Is limited to the provision of alcoholic beverages for consumption on the premises only to residents of the condominium and their nonresident guests.

(c) Does not authorize the condominium to sell alcoholic beverages by the package for off-premises consumption or to sell alcoholic beverages after the hours of serving or consumption of food have elapsed.

(3) The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation may regulate and supervise residential condominiums to which special alcoholic beverage licenses have been issued under this section in accordance with the rules of the division and general law not inconsistent with this section. The division may revoke or suspend any such license for violations of the beverage laws and rules and regulations of this state not inconsistent with this

section.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 813 Certified Public Accountants
SPONSOR(S): Caruso
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 954

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

SUMMARY ANALYSIS

In Florida, public accountancy is regulated by the Board of Accountancy under the Department of Business and Professional Regulation. The practice of public accountancy includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements. In order to practice public accountancy, a person must be licensed as a certified public accountant (CPA).

CPAs are allowed to request their license be placed on inactive status, or the licensee may be placed on inactive status for failing to meet the CPE requirements of 80 CPE hours every two years for license renewal. However, Florida law does not currently provide CPAs the option of placing licenses into a retired status as an alternative to an inactive status.

The bill:

- Allows a Florida-licensed CPA to submit an application to the DBPR to place a CPA license in a retired status if certain conditions are met.
- Provides that if a licensee with a retired status license reenters the workforce in a position that has an association with accounting or any of the CPA services, the licensee automatically loses the retired status.
- Provides a retired licensee may serve without compensation on a board of directors or board of trustees, provide volunteer tax preparation services, participate in government-sponsored business mentoring programs, or participate in an advisory role for a similar charitable, civic, or nonprofit organization.
- Provides that a retired licensee may reactivate a license in a conditional manner determined by the Florida Board of Accountancy, which requires the payment of fees and the completion of continuing education, which consists of 80 hours every two years.

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

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

The Florida Board of Accounting (board) in the Department of Business and Professional Regulation (DBPR) is the agency responsible for regulating and licensing active and inactive certified public accountants (CPA) and accounting firms in Florida. The Division of Certified Public Accounting provides administrative support to the 9-member board, which consists of 7 CPAs and 2 laypersons.[1]

To engage in the practice of public accounting, an individual or firm must be licensed and business entities must meet certain formation requirements.[2]

The "practice of public accountancy" includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.[3]

The initial licensing fee for a CPA license is $50[4], and the biennial renewal fee is $105.[5]

A person may be charged with a first-degree misdemeanor if they are not a licensed CPA and they perform: [6]

- Services involving the expression of an opinion on financial statements,
- The attestation as an expert in accountancy to the reliability or fairness of the presentation of financial information,
- The utilization of any form of opinion or financial statements that provide a level of assurance,
- The utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or
- The expression of an opinion on the reliability of an assertion by one party for the use by a third party.

Continuing Education

CPAs are required to complete 80 hours[7] of continuing professional education (CPE), which is set by the board, in public accounting subjects every 2 years to renew their license. The board sets CPE hours and has the authority to require between 48 and 80 hours every 2 years. The board has the authority to prescribe by rule additional CPE hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.[8]

The Florida Institute of Certified Public Accountants (FICPA), one of Florida's largest CPA voluntary associations, offers members 20 hours of free CPE per year. The membership fee is $295 or $395 per

[1] S. 473.303, F.S.
[2] S. 473.302, F.S.
[3] S. 473.302(8), F.S.
[4] "Initial CPA License", Florida Department of Business and Professional Regulation, www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1035&clientCode=0101&XACT_DEFN_ID=18291 (last visited Jan .23, 2024).
[5] Email from Derek Miller, Director of Legislative Affairs, Florida Department of Business and Professional Regulation, RE: CPAs (Jan. 23, 2024).
[6] S. 473.322(1)(c), F.S.
[7] S. 473.312(1)(a), F.S. allows the board to require between 48 and 80 hours of CPE every 2 years. The board requires 80 hours in r. 61H1-33.003, F.A.C.
[8] S. 473.312(1)(a), F.S.

year depending on how many years a member has been licensed. Other organizations also offer free CPE hours. Otherwise, private companies offer courses that are available online year round for between $200 and $600 per year.

The board also requires that a specific number of hours be completed in set categories or subjects. At least 10 percent of the total hours required by the board must be in accounting-related and auditing-related subjects, as distinguished from other subjects that include federal and local taxation matters and management services.[9] Five percent of the total hours required by the board must be in ethics applicable to the practice of public accounting. This requirement must be administered by providers approved by the board and include a review of the provisions of ch. 455, F.S., ch. 473, F.S., and the related administrative rules.[10]

Inactive Licenses

A CPA may request that their license be placed on inactive status. A CPA may also be placed on inactive status for failing to meet the CPE requirements for license renewal. A CPA with an inactive license cannot use the CPA designation and cannot practice public accounting.[11] Every two years, an individual with an inactive license has to pay $105 to maintain his or her license.[12] However, CPE requirements are suspended while his or her license is inactive.[13] The board is authorized to adopt rules establishing the minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.[14]

The current fee for reactivating an inactive CPA license is $250.[15] The CPE requirements for reactivating an inactive or delinquent license are 120 hours, regardless of how long the license is inactive. These CPE requirements include:

- At least 30 hours in accounting-related and auditing-related subjects;
- Not more than 30 hours in behavioral subjects; and
- A minimum of 8 hours in ethics subjects approved by the board.

Retired Status

The American Institute of CPAs (AICPA) estimated that approximately 75 percent of its members met the retirement age in 2020. According to AICPA, "many of these retirees are well respected business leaders in their communities who would like to find ways to continue to be of service, without necessarily remaining an active CPA in practice." [16]

The AICPA provides a uniform retired CPA status in their model rules that states[17] may adopt allowing retired CPAs to offer a limited array of volunteer, uncompensated services to the public. The Model Act allows inactive CPAs, who are at least 55 years of age to refer to themselves as "Retired-CPAs" and register as such with their state board of accountancy. They are able to participate in activities such as

[9] S. 473.312(1)(b), F.S.
[10] S. 473.312(1)(c), F.S.
[11] "Request Inactive Status", The Florida Department of Business and Professional Regulation, www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=4020&clientCode=0101&XACT_DEFN_ID=2738#:~:text=Licensees%20who%20no%20longer%20wish,can%20they%20practice%20public%20accounting (last visited Jan. 28, 2024).
[12] R. 61H1-31.003, F.A.C.
[13] R. 61H1-30.040(1), F.A.C.
[14] S. 473.313, F.S.
[15] R. 61H1-31.006, F.A.C.
[16] American Institute of Certified Public Accountants, Exposure Draft: AICPA/NASBA Uniform Accountancy Act and NASBA Uniform Accountancy Act Rules (November 2015) https://www.aicpa.org/advocacy/state/retiredcpastatusexposuredraft.html, p. 3 (last visited Jan. 23, 2024).
[17] *See* some states that have adopted "retired CPA status", *i.e.*, Ohio Admin. Code 4701-7-06(c); 21 N.C. Admin. Code 8J.0112; La. Rev. Stat. § 37:76(D)(2).

volunteer tax preparation services, government-sponsored business mentoring programs, and on boards of nonprofit organizations.[18]

Florida law does not currently provide CPAs the option of placing licenses into a retired[19] status as an alternative to an inactive status.

Uniform Accountancy Act

Section 473.302(9), F.S., defines the term “Uniform Accountancy Act” to mean the Uniform Accountancy Act, Seventh Edition, dated May 2014 and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy. The Uniform Accountancy Act provides uniform standards for the regulation of accountancy. The current edition is the eighth edition, dated January 2018.

Effect of the Bill

Retired Status

The bill creates a “retired status” for CPA licensees. The bill defines a "retired licensee" as a licensee whose license has been placed in retired status by the department.

The bill allows a Florida-licensed CPA to submit an application to the DBPR to place a CPA license in a retired status if the licensee:

- Is at least 65 years of age;
- Holds a current active or inactive license; and
- Is in good standing and not the subject of any sanction or disciplinary action.

The bill authorizes the board to prescribe by rule the application for placing a license into retired status. The application must state that the applicant has no association with accounting or any of the services defined in s. 473.302(8), F.S.

Under the bill, a licensee in retired status who reenters the workforce in a position that has an association with accounting, or any related services defined in s. 473.302(8), F.S., automatically loses his or her retired status except as provided in s. 473.313(8)(a), F.S, relating to placing a license in an inactive status.

The bill provides that the term “retired licensee” for the purposes of a retired license status in s. 473.313(2), F.S., means a licensee whose license has been placed in a retired status by the department.

The bill authorizes a retired licensee to:

- Serve without compensation on a board of directors or board of trustees;
- Provide volunteer tax preparation services;
- Participate in government-sponsored business mentoring program such as the Internal Revenue Service’s Volunteer Income Tax Assistance program or the Small Business’s SCORE program; or
- Participate in an advisory role for a similar charitable, civic, or nonprofit organization.

The board must require retired licensees to affirm in writing their understanding of the limited types of activities allowed while in retired status and their professional duty to ensure competency to participate in the activities.

[18] *Supra* note 11.

[19] The FICA offers membership to “retired CPAs” in Florida. “Retired” members pay $115 a year for membership and must be 55 years or older and have been licensed in the U.S. in the past 10 years. *See* “Membership Types”, *Florida Institute of CPAs*, www.ficpa.org/membership/types (last visited Jan. 27, 2024).

Under the bill, a retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the retired licensee to cover such expenses as allowed by law.

Retired licensees are permitted to use the title of "retired CPA" on any business card or letterhead or any other printed or electronic document as long as it is used in a manner that is not confusing to the public.

A "retired CPA" title may not offer or render professional services that require her or his signature and the use of the CPA title, regardless of whether "retired" is attached to such title.

Retired licensees are not required:

- To have a certificate issued with the word "retired".
- To maintain the CPE requirements set forth in s. 473.312, F.S.

A retired licensee may reactivate his or her license in a conditional manner determined by the board. The conditions of reactivation must require the payment of fees and the completion of any continuing education requirements.

Under the bill, the CPE requirements for reactivation are those of the most recent biennium plus one-half of the continuing education requirements in s. 473.312, F.S., for each year or part thereof during which the license was on retired status. The bill also provides that, notwithstanding any other provision of s. 473.313, F.S., the CPE requirements are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, a minimum of eight hours of Florida-specific ethics, and not more than 30 hours of behavioral subjects.

Uniform Accountancy Act

The bill updates the definition of "Uniform Accountancy Act" to reference the current Eighth Edition, dated January 2018 and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

B. SECTION DIRECTORY:

Section 1: Amends s. 473.313, F.S., providing requirements for CPA retired status licenses.
Section 2: Amends s. 73.302, updating definition of Uniform Accountancy Act.
Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A retired CPA wishing to reactivate her or his license will be subject to reactivation fees in an amount determined by the board, and the expense of completing required continuing education hours.

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:

Section 19(a), Article VII of the State Constitution limits the authority of the legislature to enact legislation that imposes a new state tax or fee by requiring such legislation to be approved by a two-thirds vote in each chamber of the legislature. Section 19(e), Article VII of the Florida Constitution provides that a state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject. The bill permits a licensed CPA in retired status to reactivate his or her license in a conditional manner determined by the Florida Board of Accountancy.

The bill requires that the conditions for the reactivation of a license in retired status must include the payment of fees. The board currently has the authority to impose a fee for the reactivation of an inactive license. Because the bill requires the board to impose a fee of an unknown amount for the reactivation of a license in retired status, it is unclear if the voting and separate bill requirements found in the State Constitution apply to the bill.

B. RULE-MAKING AUTHORITY:

The board will need to generate rules for retired status licenses. There is sufficient rulemaking authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 122-131 of the bill addressing the CPE requirements are unclear.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to certified public accountants; amending s. 473.313, F.S.; authorizing certain certified public accountants to apply to the Department of Business and Professional Regulation to place their licenses on retired status; authorizing the Board of Accountancy to prescribe by rule a certain application; providing requirements for the application; providing that a licensee loses retired status in certain circumstances; authorizing a retired licensee to take certain actions without losing retired status; requiring a certain affirmation; authorizing a retired licensee to accept certain reimbursements or per diem amounts; prohibiting a retired licensee from offering or rendering certain professional services; providing for the reactivation of a retired licensee's license; providing requirements for the conditions of such reactivation; providing a definition; amending s. 473.302, F.S.; revising a definition; providing an effective date.

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

Section 1. Section 473.313, Florida Statutes, is amended to read:

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

473.313 Inactive status; retired status.—

(1) A Florida certified public accountant may request that her or his license be placed in an inactive status by making application to the department. The board may prescribe by rule fees for placing a license on inactive status, renewal of inactive status, and reactivation of an inactive license.

(a) ~~(2)~~ A license that has become inactive under this subsection ~~(1)~~ or for failure to complete the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The maximum continuing education requirements for reactivating a license are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of 8 hours in ethics subjects approved by the board, for the reactivation of a license that is inactive or delinquent.

(b) ~~(3)~~ A license that is delinquent for failure to report completion of the requirements in s. 473.312 may be reactivated under s. 473.311 upon application to the department. Reactivation requires the payment of an application fee as determined by the board and certification by the Florida certified public accountant that the applicant satisfactorily completed the continuing education requirements set forth under s. 473.311. If the license is delinquent on January 1 because of

failure to report completed continuing education requirements, the applicant must submit a complete application to the board by March 15 immediately after the delinquent period.

(c) ~~(4)~~ Any Florida certified public accountant holding an inactive license may be permitted to reactivate such license in a conditional manner. The conditions of reactivation shall require the payment of fees and the completion of required continuing education.

(d) ~~(5)~~ Notwithstanding the provisions of s. 455.271, the board may, at its discretion, reinstate the license of an individual whose license has become null and void if the individual has made a good faith effort to comply with this section but has failed to comply because of illness or unusual hardship. The individual shall apply to the board for reinstatement in a manner prescribed by rules of the board and shall pay an application fee in an amount determined by rule of the board. The board shall require that the individual meet all continuing education requirements as provided in paragraph (a) ~~subsection (2)~~, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter.

(2) A Florida certified public accountant who is at least 65 years of age, currently holds an active or inactive license in good standing under this chapter, and is not the subject of any sanction or disciplinary action may request that her or his license be placed on retired status by making application to the

department. The board may prescribe by rule the application for placing a license on retired status, which must state that the applicant has no association with accounting or any of the services described in s. 473.302(8). If a licensee who has been granted retired status reenters the workforce in a position that has an association with accounting or any of the services described in 473.302(8), the licensee automatically loses her or his retired status except as provided in paragraph (a).

(a) A retired licensee may, without losing her or his retired status, serve without compensation on a board of directors or board of trustees, provide volunteer tax preparation services, participate in a government-sponsored business mentoring program such as the Internal Revenue Service's Volunteer Income Tax Assistance program or the Small Business Administration's SCORE program, or participate in an advisory role for a similar charitable, civic, or other non-profit organization.

(b) The board shall require a retired licensee to affirm in writing her or his understanding of the limited types of activities in which she or he may engage while in retired status and that she or he has a professional duty to ensure that she or he holds the professional competencies necessary to participate in such activities.

(c) A retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer

services or de minimis per diem amounts paid to the licensee to cover such expenses as allowed by law.

(d) A retired licensee may use the title of "retired CPA" on any business card or letterhead or any other printed or electronic document. However, such title must not be applied in such a manner that could confuse the public as to the current status of the licensee. The licensee is not required to have a certificate issued with the word "retired" on the certificate.

(e) A retired licensee is not required to maintain the continuing education requirements under s. 473.312.

(f) A retired licensee may not offer or render professional services that require her or his signature and the use of the CPA title, regardless of whether "retired" is attached to such title.

(g) A retired licensee may be permitted to reactivate her or his license in a conditional manner as determined by the board. The conditions of reactivation must require the payment of fees and the completion of required continuing education. The board may prescribe by rule an application for reactivating a license placed on retired status and continuing education requirements as a condition of reactivating a license placed on retired status. The minimum continuing education requirements for reactivating a license placed on retired status are those of the most recent biennium plus one-half of the requirements in s. 473.312 for each year or part thereof during which the license

was on retired status. Notwithstanding any other provision of this section, the continuing education requirements are 120 hours, including at least 30 hours in accounting-related and auditing-related subjects, a minimum of 8 hours of Florida-specific ethics, and not more than 30 hours of behavioral subjects.

For the purposes of this subsection, the term "retired licensee" means a licensee whose license has been placed in retired status by the department.

Section 2. Subsection (9) of section 473.302, Florida Statutes, is amended to read:

473.302 Definitions.—As used in this chapter, the term:

(9) "Uniform Accountancy Act" means the Uniform Accountancy Act, Eighth ~~Seventh~~ Edition, dated January 2018 ~~May 2014~~ and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

However, these terms shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in

reviewing the services provided to the public by members of these entities.

Section 3. This act shall take effect July 1, 2024.

HB 909

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 909 Pari-mutuel Permitholders
SPONSOR(S): Esposito
TIED BILLS: **IDEN./SIM. BILLS:** SB 778

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

The Florida Gaming Control Commission (Commission) is responsible for exercising all regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, and slot machine facilities. The Florida Pari-mutuel Wagering Act (Act) provides specific permitting and licensure requirements for the pari-mutuel industry. Pari-mutuel wagering activities are limited to operators who have received a permit from the Commission, which is then subject to ratification by county referendum. Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities. Certain permitholders are authorized to operate cardrooms and slot machines at their facility.

Each permitholder is required to operate all performances at the date and time specified on its license. However, the Commission is authorized to approve minor changes in racing dates after a license has been issued if there is no objection from any operating permitholder that is:

- Conducting live racing or games; and
- Located within 50 miles of the permitholder requesting the changes in operating dates.

Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering in this state are entitled to lease any and all of their facilities, as follows:

- The lease may only be to another holder of a same class valid pari-mutuel permit;
- The permitholders must be located within a 35-mile radius of each other; and
- The lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

The bill:

- Revises certain references to pari-mutuel “racing” dates to instead reference “performance” dates, in the provision that authorizes the Commission to approve changes in such dates.
- Removes the restriction that pari-mutuel lease agreements be between holders of the same class permit.

The bill does not appear to have a fiscal impact on state or local government. The bill may have a positive fiscal impact on the private sector.

The effective date of the bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Overview of Gaming in Florida

Gambling is generally prohibited in Florida, unless specifically authorized. Section 7, Art. X, of the Florida Constitution prohibits lotteries, other than pari-mutuel pools, from being conducted in Florida. Chapter 849, F.S., includes prohibitions against slot machines, keeping a gambling house and running a lottery. However, a constitutional amendment approved by voters in 1986 authorized state-operated lotteries, and a constitutional amendment in 2004 authorized slot machines in Miami-Dade and Broward Counties.

The following gaming activities are also authorized by law and regulated by the state:

- Pari-mutuel[1] wagering;[2]
- Gaming on tribal reservations in accordance with the Indian Gaming and Regulatory Act and the 2010 Gaming Compact with the Seminole Tribe of Florida;
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[3] and
- Cardrooms[4] at certain pari-mutuel facilities.

Chapter 849, F.S., also authorizes, under specific and limited conditions, the conduct of penny-ante games,[5] bingo,[6] charitable drawings,[7] game promotions (sweepstakes),[8] bowling tournaments,[9] and skill-based amusement games and machines at specified locations.[10]

In 2013, the legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prizes are prohibited slot machines.[11]

In 2015, the legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida's limitations on gambling and prevent the expansion of casino-style gambling. The legislature clarified regulations related to the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.[12]

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[1] "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

[2] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.

[3] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.

[4] S. 849.086(2)(c), F.S., defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."

[5] S. 849.085, F.S.

[6] S. 849.0931, F.S.

[7] S. 849.0935, F.S.

[8] S. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

[9] S. 849.141, F.S.

[10] S. 546.10, F.S.

[11] Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

[12] S. 546.10, F.S.

Amendment to Florida Constitution Prohibiting Racing of and Wagering on Greyhounds or Other Dogs

During the 2018 General Election, the voters approved an initiative constitutional amendment, Amendment 13, Prohibition on Racing of and Wagering on Greyhounds or Other Dogs, which has been codified in the State Constitution as Article X, Section 32.[13]

Article X, Section 32 states:

> Prohibition on racing of and wagering on greyhounds or other dogs.—The humane treatment of animals is a fundamental value of the people of the State of Florida. After December 31, 2020, a person authorized to conduct gaming or pari-mutuel operations may not race greyhounds or any member of the *Canis Familiaris* subspecies in connection with any wager for money or any other thing of value in this state, and persons in this state may not wager money or any other thing of value on the outcome of a live dog race occurring in this state. The failure to conduct greyhound racing or wagering on greyhound racing after December 31, 2018, does not constitute grounds to revoke or deny renewal of other related gaming licenses held by a person who is a licensed greyhound permitholder on January 1, 2018, and does not affect the eligibility of such permitholder, or such permitholder's facility, to conduct other pari-mutuel activities authorized by general law. By general law, the legislature shall specify civil or criminal penalties for violations of this section and for activities that aid or abet violations of this section.

As of January 1, 2021, wagering on live greyhound racing in Florida is completely prohibited. However, cardroom and slot machine facilities by such permitholders may continue to operate after the closure of racing activities.

Pari-mutuel Wagering

Since approximately 1931, pari-mutuel wagering has been authorized in Florida for jai alai, greyhound racing, and horseracing. These activities are overseen and regulated[14] by the Division of Pari-Mutuel Wagering (Division) at the Florida Gaming Control Commission (Commission), which is housed within the Department of Legal Affairs, Office of the Attorney General.[15] The Commission is tasked with exercising all regulatory and executive powers of the state on all forms of gambling authorized by the State Constitution or law including pari-mutuel wagering, card rooms, slot machine facilities, and the oversight of gaming compacts under the federal Indian Gaming Regulatory Act but excluding state lottery games authorized by the State Constitution.[16]

Pari-mutuel Wagering State Revenue

License fees and taxes collected by pari-mutuel wagering permitholders, including slot machine and cardroom permitholders, are deposited with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund. Slot machine tax revenue is transferred from the Pari-mutuel Wagering Trust Fund to the Educational Enhancement Trust Fund to supplement public education funding statewide. Taxes collected by cardrooms are split between the Pari-mutuel Wagering Trust Fund and the General Revenue Fund. During the 2022-2023 fiscal year, the pari-mutuel industry operated 447 racing and gaming days, which resulted in state revenue of $6,291,327, total paid attendance of 61,775, and total pari-mutuel handle of $469,498,714.[17]

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[13] See the text of Amendment 13, now codified as art. X, s. 32, at http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes#A10S32 (last visited Jan. 27, 2024).
[14] From 1932 to 1969, Florida's pari-mutuel industry was regulated by the State Racing Commission. In 1970, the commission became a division within the Department of Business Regulation, which, in 1993, became DBPR.
[15] *See* ss. 16.71-16.716, F.S.
[16] S. 16.712, F.S.
[17] Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 12, 2024).

Pari-mutuel Wagering Live Performance Requirements

Currently, only thoroughbred permitholders are required to conduct live racing.[18] Greyhound permitholders may not conduct live racing, and jai alai permitholders, harness horse racing permitholders, or quarter horse racing permitholders may elect not to conduct live racing or games.

A greyhound permitholder, jai alai permitholder, harness horse racing permitholder, or quarter horse racing permitholder that does not conduct live racing or games:[19]

- Retains its permit;
- Is a pari-mutuel facility as defined in s. 550.002(23), F.S.;
- Is eligible, but not required, to be a guest track, and if the permitholder is a harness horse racing permitholder, is eligible to be a host track for purposes of intertrack wagering and simulcasting pursuant to ss. 550.3551, 550.615, 550.625, and 550.6305, F.S.; and
- Remains eligible for a cardroom license.

A permitholder or licensee may not conduct live greyhound racing or dogracing in connection with any wager for money or any other thing of value in the state. The Division is authorized to deny, suspend, or revoke any permit or license in ch. 550, F.S., for conducting live greyhound racing or dogracing in violation of this provision. In addition to, or in lieu of, denial, suspension, or revocation of such permit or license, the Division is authorized to impose a civil penalty of up to $5,000. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.[20]

Pari-mutuel Wagering Permitting and Licensure

The Florida Pari-mutuel Wagering Act (Act)[21] provides specific permitting and licensing requirements for the conduct of the pari-mutuel industry.[22] Pari-mutuel wagering activities are limited to operators who have received a permit from the Division, which is then subject to ratification by county referendum.[23] Permitholders apply for an operating license annually to conduct pari-mutuel wagering activities.[24] Certain permitholders are also authorized to operate cardrooms[25] and slot machines at their facility.[26]

During Fiscal Year 2021-2022, the following 39 pari-mutuel permitholders were licensed to operate:[27]

- Nineteen Greyhound Racing permits.
- Three Thoroughbred Horse Racing permits.
- One Harness Horse Racing permit.
- Six Quarter Horse Racing permits.
- Ten Jai-Alai permits.

The Division is authorized to revoke or suspend any permit or license upon the willful violation by the permitholder or licensee of any provision of the Act, or any administrative rule adopted by the Division, and may impose a civil penalty against the permitholder or license up to $1,000 for each offense.[28]

During Fiscal Year 2022-2023, the Division issued 22 rulings and five consent orders with assessed fines and/or imposed license suspensions for violations. [29]

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[18] S. 550.01215(1)(b)1., F.S.
[19] *Id.*
[20] S. 550.01215(1)(b)2., F.S.
[21] Ch. 550, F.S.
[22] S. 550.054(1), F.S.
[23] S. 550.054(2), F.S.
[24] S. 550.0115, F.S.
[25] S. 849.086, F.S.
[26] S. 551.104, F.S.
[27] Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 12, 2024).
[28] S. 550.054(9)(b), F.S.

Pari-mutuel Wagering License Restrictions

The Act generally requires that any transfer or assignment of a permit receive prior approval[30] by the commission, which must determine the eligibility[31] of persons and entities to hold a permit. Similarly, if a permit is held by a corporation or business entity other than an individual, the transfer of ten percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the commission.[32]

The Act provides restrictions on which persons and entities (including but not limited to employees, officers and directors, partners, and owners of the permitholder) may hold permits, based on whether they are of "good moral character," or have been convicted of a disqualifying felony[33] or for bookmaking.[34]

The Act restricts pari-mutuel permitholders **from being issued an operating license** to conduct pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021.[35]

The Act restricts pari-mutuel permitholders **from holding a permit** to conduct pari-mutuel wagering and associated cardroom or slot machine licenses[36] unless the permitholder, other than a limited thoroughbred permitholder, held an operating license for the conduct of pari-mutuel wagering for Fiscal year 2020-2021.[37]

The Act specifies that permits held on January 1, 2021 are deemed valid,[38] but new permits for pari-mutuel wagering may not be approved or issued.[39]

The commission is required to revoke the permit of any permitholder, other than a limited thoroughbred permitholder, who did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. A permit revoked under this provision is void and may not be reissued.[40]

Relocation

Certain permitholders may relocate the location listed in their permit to **a new location within 30 miles**. Greyhound and jai alai permitholders operating in counties where they are the only permitholder of that class may relocate.[41] Greyhound permitholders that converted their permit from a jai alai permit

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[29] Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023*, https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 12, 2024).
[30] There is one exception to the prior-approval requirement in s. 550.054(11)(a), F.S., which is that the holder of a permit converted to a jai alai permit "may lease or build anywhere within the county in which its permit is located." As of 2021, such conversions are prohibited. *See* s. 550.054(15)(d), F.S.
[31] *See* s. 550.1815, F.S
[32] S. 550.054(11)(b), F.S.
[33] Pursuant to s. 550.1815(1)(b), F.S., the following are disqualifying felonies: (1) a felony in Florida; (2) any felony in any other state which would be a felony if committed in Florida under the laws of this state; (3) any felony under the laws of the United States; or (4) a felony under the laws of another state if related to gambling which would be a felony under Florida law if the offense was committed in Florida.
[34] The term "bookmaking" is defined in s. 849.25, F.S., to mean "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever."
[35] S. 550.01215(1)(d), F.S.
[36] Under s. 551.114(4), F.S., designated slot machine gaming areas must be located at the address specified in the licensed permitholder's slot machine license issued for Fiscal Year 2020-2021.
[37] S. 550.054(15)(a), F.S.
[38] S. 550.054(15)(b), F.S.
[39] S. 550.054(15)(c), F.S.
[40] S. 550.054(9)(c), F.S.
[41] S. 550.0555, F.S.

may relocate, and a greyhound permitholder in a county where it is the only permitholder who operates at a leased facility may also relocate.[42]

In each of these cases, **the relocation must not cross county boundaries and must be approved under the local zoning regulations.** Approval by the Division is required for these relocations.

Conversion

A permit to conduct pari-mutuel wagering may not be converted to another class of permit.[43]

Changes in Racing Dates

The Commission is required to issue each license no later than March 15, and each permitholder is required to operate all performances at the date and time specified on its license. However, the Commission is authorized to approve minor changes in racing dates after a license has been issued if there is no objection from any operating permitholder that is:[44]

- Conducting live racing or games; and
- Located within 50 miles of the permitholder requesting the changes in operating dates.

If a permitholder objects, the Commission is required to approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates.[45]

In making the determination to change racing dates, the Commission is required to take into consideration the impact of such changes on state revenues.[46]

Lease of Pari-mutuel Facilities

Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering in this state are entitled to lease any and all of their facilities, as follows:[47]

- The lease may only be to another holder of a same class valid pari-mutuel permit;
- The permitholders must be located within a 35-mile radius of each other; and
- The lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

Effect of Proposed Changes

Changes in Racing Dates

The bill changes references to “racing” dates to instead reference “performance” dates.

Lease of Pari-mutuel Facilities

The bill removes the requirement that such agreements be between holders of the same class of permit.

B. SECTION DIRECTORY:

Section 1: Amends s. 550.01215, F.S., relating to license application; periods of operation; license fees; bond.

[42] S. 550.054, F.S.
[43] S. 550.054(15)(d), F.S.
[44] S. 550.01215(3), F.S.
[45] *Id.*
[46] *Id.*
[47] S. 550.475, F.S.

Section 2: Amends s. 550.475, F.S., relating to lease of pari-mutuel facilities by pari-mutuel permitholders.

Section 3: Provides an effective date of July 1, 2024.

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 removes the limitation that the lease of pari-mutuel facilities only be allowed for holders of the same class pari-mutuel permit. This may create a positive fiscal impact to the businesses that are currently restricted from participating in such lease agreements.

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 pari-mutuel permitholders; amending s. 550.01215, F.S.; revising provisions to allow changes to performance dates; amending s. 550.475, F.S.; revising provisions limiting leasing of pari-mutuel facilities to permitholders of the same class; providing an effective date.

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

Section 1. Subsection (3) of section 550.01215, Florida Statutes, is amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(3) The commission shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The commission shall have the authority to approve minor changes in performance ~~racing~~ dates after a license has been issued. The commission may approve changes in performance ~~racing~~ dates after a license has been issued when there is no objection from any operating permitholder that is conducting live racing or games and that is located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the commission shall approve or disapprove the change in operating

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

dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the commission shall take into consideration the impact of such changes on state revenues.

Section 2. Section 550.475, Florida Statutes, is amended to read:

550.475 Lease of pari-mutuel facilities by pari-mutuel permitholders.—Holders of valid pari-mutuel permits for the conduct of any pari-mutuel wagering in this state are entitled to lease any and all of their facilities to any other holder of a ~~same class~~ valid pari-mutuel permit, when located within a 35-mile radius of each other; and such lessee is entitled to a permit and license to conduct intertrack wagering and operate its race meet or jai alai games at the leased premises.

Section 3. This act shall take effect July 1, 2024.

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

HB 1021

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1021 Community Associations
SPONSOR(S): Lopez, V. and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1178

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

SUMMARY ANALYSIS

Related to community association managers (CAMs) and CAM firms, the bill:

- Requires a CAM to return all community association records in its possession within 20 days of termination of services agreement or a written request whichever occurs first.
- Provides conflict of interest disclosure requirements and a process for associations to follow when approving contracts with a CAM or a relative that may present a conflict of interest.

Related to official records, the bill:

- Provides that on January 1, 2026, condominium associations with 25 units or more will be required maintain specified records available for download on the association's website or by an application on a mobile device.
- Requires associations to maintain additional accounting records (e.g., invoices and other documentation that substantiates any receipt or expenditure).
- Permits associations to fulfill records requests by directing unit owners to the records that are posted on the association's website.
- Provides criminal penalties related to the association refusing to release or destroy official records.

The bill:

- Provides criminal penalties for accepting a kickback and for fraudulent voting activities.
- Requires directors to annually complete continuing education on recent changes to the condominium laws and rules.
- Requires a residential condominium association of 10 or more units to meet at least four times a year for the purpose of responding to inquiries from members and informing members on the state of condominium.
- Allows the board with regard to the structural integrity reserve study to recommend a temporary pause in the reserve funding or reduced funding in certain circumstances.
- Provides a process for the board to secure a line of credit and assess a contingent special assessment to fund repairs.
- Requires the Division of Condominiums, Timeshares and Mobile Homes to conduct random audits of community associations, give its employees the right to attend board meetings, and require them to refer suspected criminal activity to law enforcement agencies.

The bill may have a negative fiscal impact on state government and does not have a fiscal impact on local governments.

The bill has an effective date of July 1, 2024, unless otherwise expressly provided.

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, mediation and arbitration, and developer disclosure. The Division has regulatory authority over the following business entities and individuals:

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

Community Association Managers- Current Situation

Community association managers (CAMs) are licensed and regulated by the Department of Business and Professional Regulation (DBPR) pursuant to part VIII of ch. 468, F.S. Community association managers are regulated by the seven-member Regulatory Council of Community Association Managers at DBPR.[1]

Section 468.431(2), F.S., defines "community association management" to mean:

> any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of $100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association.

A license is not required for a person who:

- Performs clerical or ministerial functions under the direct supervision and control of a licensed manager, or
- Performs only the maintenance of a community association and does not assist in any of the management services.[2]

To become licensed as a CAM, a license applicant must:

- Submit to a background check to determine good moral character,
- Attend a DBPR-approved in-person training prior to taking the examination, and
- Pass the licensure examination.[3]

CAMs must also complete not more than 10 hours of continuing education hours as approved by the council to renew and maintain their licenses.[4]

Section 468.4334, F.S., outlines the professional practice standards for CAMs and CAM firms, including the duty to "discharge the duties performed on behalf of the association as authorized by [ch. 468,

[1] S. 468.4315(1), F.S.
[2] S. 468.431(2), F.S.
[3] S. 468.433, F.S.
[4] S. 468.4336 and 468.4337, F.S.

F.S.], loyally, skillfully, and diligently; dealing honestly and fairly; in good faith; with care and full disclosure to the community association; accounting for all funds; and not charging unreasonable or excessive fees."

The license of a CAM or CAM firm may be disciplined, including a suspension or revocation of their license, or denial of a license renewal, for the grounds specified in s. 468.436, F.S., including:

- Committing acts of gross misconduct or gross negligence in connection with the profession.
- Contracting, on behalf of an association, with any entity in which the CAM has a financial interest that is not disclosed.
- Violating any provision of chapter 718 (relating to condominiums), chapter 719 (relating to cooperatives), or chapter 720 (relating to homeowners' associations) during the course of performing community association management services pursuant to a contract with a community association.[5]

Community Association Managers- Effect of the Bill

Return of Official Records

The bill provides additional professional practice standards for CAMs and CAM firms. The bill requires CAMs and CAM firms to return all community association official records in its possession within 20 days of termination of a contractual agreement to provide CAM services or a written request for the return of the official records, whichever occurs first.

Failure of a CAM or a CAM firm to timely return all of the official records within its possession to the community association creates a rebuttable presumption that such CAM or CAM firm willfully failed to comply. If the CAM or CAM firm fails to timely return the applicable official records to the community association, the CAM or CAM firm will be subjected to:

- suspension of its license under s. 468.436, F.S., and
- a civil penalty of $1,000 per day (up to 10 days) which is assessed beginning on the 21st day after the termination of a contractual agreement receipt of a written request from the association for return of the records.

Conflicts of Interest

The bill creates a conflict of interest disclosure process for CAMs and CAM firms, including directors, officers, persons with a financial interest in a CAM firm, and the relatives[6] of such persons (collectively used as "individual" under this subheading). The bill provides that individuals must disclose to the community association any activity that may reasonably be construed to be a conflict of interest.

If any of the following exist without providing prior notice, there is a presumption that there is a conflict of interest unless proven otherwise:

- An individual enters into a contract for good or services with the association.
- An individual holds an interest in a business entity that conducts business with the association or proposes to enter a contract or other transaction with the association. The business entities include:
  - A corporation;
  - Limited liability corporation;
  - Partnership;
  - Limited liability partnership; or
  - Other business entity.

Under the bill, if the association receives and considers a bid to provide a good or service, other than a CAM service, from an individual with a financial interest in the community association, the association must also consider at least three bids from other third-party providers of such good or service.

[5] S. 468.436(2)(b)5.-7., F.S.
[6] The term "relative" in the bill means a relative within the third degree of consanguinity by blood or by marriage.

If an individual discloses that he or she engages in an activity that is a conflict of interest as described above:

- Such activity must be listed on all contracts;
- Transactional documents related to the proposed activity must be attached to the meeting agenda of the next board meeting; and
- The disclosures of a possible conflict of interest must be entered into the written minutes of the meeting.

The bill provides that a contract or other transaction with a possible conflict of interest must be approved by an affirmative vote of two-thirds of all other directors present.

Moreover, the bill provides that the contract or other transaction with a possible conflict of interest must be disclosed to the members at the next regular or special meeting. The bill allows any of the members to bring such contract or other transaction to a vote and allows such contract or other transaction to be canceled by a majority vote of the present members. If such contract is canceled, the association:

- would only be liable for the reasonable value of the goods and services provided up to the time of cancellation, and
- would not be liable for any termination fees, liquidated damages, or other form of penalty for such cancellation.

The bill provides a procedure for terminating a contract if a conflict of interest was not properly disclosed. The bill provides that a contract is voidable and terminates upon the association filing a written notice of the termination of the contract with its board of directors and the notice must contain the consent of at least 20 percent of the voting interests of the association if:

- an association enters a contract with an individual or the individual has an interest in an activity that is a possible conflict of interest, and
- such activity has not been properly disclosed as a conflict of interest or potential conflict of interest.

The bill revises the disciplinary grounds for CAMs and CAM firms to provide a disciplinary ground on the basis of a CAM or CAM firm's failure to disclose a conflict of interest as required by s. 468.4335, F.S.

The bill makes conforming changes.

Condominiums and Cooperatives Background

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.[7] 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.[8] All unit owners are members of the condominium association, and the association is responsible for common elements operation and maintenance.[9] 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.[10]

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

[7] S. 718.103(11), F.S.
[8] S. 718.104(2), F.S.
[9] S. 718.103(2), F.S.
[10] S. 718.103(4), F.S.

residents, who own shares in the association.[11] 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.[12]

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 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.[13]

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.[14]

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.

Condominium Associations

Official Records - Current Situation

Florida law specifies certain official records that condominium associations must permanently maintain from the inception of the association. These records include:[15]

- A copy of the plans, permits, warranties, and other items provided by the developer.
- A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.
- A photocopy of the recorded bylaws of the association and each amendment to the bylaws.
- A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.
- A copy of the current rules of the association.
- A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.
- A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is provided.
- All current insurance policies of the association and condominiums operated by the association.

[11] S. 719.103(2), (26), F.S.
[12] S. 718.111(1), F.S.
[13] 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 Jan. 29, 2024).
[14] *Id.*; *Hollywood Towers Condominium Association v. Hampton*, 40 So. 3d 784, 787 (Fla. 4th DCA 2010).
[15] See s. 718.111(12), F.S.

- A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.
- Bills of sale or transfer for all property owned by the association.

Generally, other official records must be maintained for at least 7 years. These records include:
- Accounting records for the association and separate accounting records for each condominium that the association operates.
- Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates.
- All rental records if the association is acting as agent for the rental of condominium units.
- A copy of the current question and answer sheet as described in s. 718.504, F.S.
- A copy of the milestone inspection and turnover inspection reports and any other inspection report relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.
- Bids for materials, equipment, or services.
- All affirmative acknowledgments made pursuant to s. 718.121(4)(c), F.S.
- All other written records of the association which are related to the operation of the association.

An association must maintain its official records within the state of Florida and make them available for inspection within 45 miles of the association or within the county where the association is located.[16]

Unit owners may request to inspect and make copies of an association's official records. An association must make the records available for inspection within 10 business days of receiving a written request. Failure to provide an owner or renter the requested records within 10 business days of receiving a request creates a rebuttable presumption that the association willfully failed to provide the records. An owner who is denied access to the records is entitled to damages and costs.[17]

Any person who knowingly or intentionally defaces or destroys accounting records that were required to be maintained for a certain period of time, or who knowingly or intentionally fails to create or maintain accounting records with the intent of causing harm to the association or one or more of its members, is subject to a civil penalty.[18]

An association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections. An association also has the option to make the official records available electronically via the Internet or in an electronic format viewable on a computer screen.[19] Additionally, condominium associations with 150 or more units must maintain a website with digital copies of certain official records such as meeting notices, a copy of the articles of incorporation, declaration, bylaws, and rules of the association.[20]

However, the following records are not available for inspection by owners:[21]
- Records protected by the lawyer-client privilege;
- Information obtained by an association in connection with the transfer of a unit or parcel;
- Personnel records of association or management company employees;
- Unit owner medical records;
- Personnel identifying information such as social security numbers, driver license numbers, and credit card numbers;
- Electronic security measures that are used to safeguard data; and
- The software and operating system used by the association which allow the manipulation of data.

[16] S. 718.111(12)(b)-(c), F.S.
[17] *Id.*
[18] S. 718.111(12)(c)2., F.S.
[19] *Id.*
[20] Ss. 718.111(12)(b), and (g), F.S.
[21] S. 718.111(12)(c), F.S.

If a unit owner presents the Division with evidence that the association has failed or has refused to respond to two official records requests, the Division must issue a subpoena requiring the production of the requested records where the records are located.[22]

Official Records – Effect of the Bill

The bill allows an association to fulfill its obligation to let people copy and inspect official records if:

- The requested records are posted on the website, and
- The association directs all persons authorized to request access to the official records.

The bill provides that on January 1, 2026, a condominium association with **25 or more units**, instead of 150 or more units, is required to post digital copies of specified documents on its website or make such documents available through an application that can be downloaded on a mobile device.

The bill clarifies that the e-mail addresses and facsimile numbers are only accessible to unit owners if consent to receive notice by electronic transmission is provided.

The bill provides that accounting records include:

- All invoices,
- Transaction receipts,
- Deposit slips, or
- Other underlying documentation that substantiates any receipt or expenditure of funds by the association.

The bill requires that the official records must be maintained in an organized manner that makes the inspection of the records easier for the unit owner. The bill provides that the obligation for an association to maintain records includes the obligation to:

- Obtain, and
- Recreate those records that are lost, destroyed, or otherwise unavailable.

Under the bill, the association must provide a checklist of the available official records for copying and inspecting and the records that are not available when a person provides a written request to inspect records. The checklist must also be accompanied by a sworn affidavit in which the person facilitating or handling the association's compliance with the request attests to the veracity of the checklist provided to the requestor. This checklist must be maintained for 7 years. An association delivering a checklist and affidavit creates a rebuttable presumption that the association has complied.

The bill provides criminal penalties for the association refusing to release or destroy official records. These include:

- A second-degree misdemeanor for any director or member of the board or association to knowingly, willfully, and "repeatedly" [23] violate any specified requirements relating to inspection and copying of official records of an association.
- A first-degree misdemeanor, instead of being subject to a civil penalty, for a person who:
    - knowingly or intentionally defaces or destroys accounting records that were required to be maintained for a certain period of time, or
    - who knowingly or intentionally fails to create or maintain accounting records with the intent of causing harm to the association or one or more of its members.
- A third-degree felony for willfully and knowingly refusing to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.

The bill makes conforming changes.

[22] S. 718.501(1)(d)7., F.S.
[23] In the bill, "repeatedly" means two or more violations within a 12-month period.

The bill requires the Division to provide the official records to the unit owner at **no charge** when the association has failed to or refused to respond to a unit owner's record requests.

Association Meetings- Current Situation

Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency.[24]

Association Meetings- Effect of the Bill

Under the bill, the board of a residential condominium association of more than 10 units, the board must meet at least four times each year for the purpose of responding to inquiries from members and informing members on the state of the condominium, including:

- The status of construction or repair projects;
- The status of the association's revenue and expenditures during the fiscal year; or
- Other issues affecting the association.

The bill provides that if an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice of the meeting.

Powers and Duties of Officers and Directors- Current Situation

Breaches of a Fiduciary Duty and Prohibited Acts

Officers and directors of a condominium association have a fiduciary relationship to the unit owners, and may be sanctioned for breach of their fiduciary duty. "An officer [or director] may be liable to the association members for breaches of trust, fraud, negligence,[25] and he or she may be subject to removal from office and other civil penalties imposed by the Division of Florida Condominiums, Timeshares, and Mobile Homes for a willful and knowing violation of Condominium Act or a rule of the Division.[26]"[27]

An officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breaches or fails to perform his or her duties. The breach of, or failure to perform, such duties constitutes:

- A violation of criminal law as provided in s. 617.0834, F.S.;
- A transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or
- Recklessness[28] or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

An officer, director, or manager may not solicit, offer to accept, or accept anything or service of value or a kickback for which consideration has not been provided for the benefit of such person or immediate

[24] S. 718.112(2)(c), F.S.
[25] S. 718.111(1)(d), F.S.
[26] *Id*.
[27] Peter M. Dunbar, The Condominium Concept, Pineapple Press (2022), p. 94.
[28] S. 617.0834(2)(a), F.S. defines "recklessness" as the acting, or omission to act, in conscious disregard of a risk:

- Known, or so obvious that it should have been known, to the officer or director; and

Known to the officer or director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

family members from any person providing or proposing to provide goods or services to the association.[29]

Any such officer, director, or manager who knowingly solicits, offers to accept, or accepts anything or service of value or kickback is subject to a civil penalty pursuant to s. 718.501(1)(d), F.S., and, if applicable, a criminal penalty as provided in s. 718.111(1)(d), F.S.

Moreover, any person who knowingly or intentionally defaces or destroys accounting records that are required to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty[30].

Criminal Penalties

A directors and officers are subject to criminal penalties for the following:

- A third-degree felony for forgery of a ballot envelope or voting certificate used in a condominium association election; and[31]
- Theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, F.S.

Removal from Office

A director or officer charged with a felony theft or embezzlement offense involving the association's funds or property must be removed from office, creating a vacancy in the office to be filled according to law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. While such director or officer has such criminal charge pending, he or she may not be appointed or elected to a position as a director or officer. However, if the charges are resolved without a finding of guilt, the director or officer will be reinstated for the remainder of his or her term of office, if applicable. [32]

Directors or officers charged with forgery of a ballot envelope or voting certificate, theft or embezzlement of association funds, and destruction of or refusal to allow inspection or copying of association records must be removed from office, and the vacancy[33] must be filled until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if applicable.

Debit Card Usage

An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expense. [34]Use of a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association may be prosecuted as credit card fraud.[35]

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[29] S. 718.111(1)(a), F.S.
[30] S. 718.111(12)(c)2., F.S., *see also*, s. 718.501(1), F.S.
[31] S. 718.111(1)(d), F.S.
[32] S. 718.112(2)(q), F.S.
[33] Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. *See* s. 718.112(2)(d)2., F.S.
[34] S. 718.111(15)(a), F.S.
[35] S. 718.111(15)(b), F.S.

Officers and Directors- Effect of the Bill

Criminal Penalties

In addition to current requirements, the bill provides that an association officer, director, or CAM that accepts a kickback commits a third-degree felony.

The bill provides that each of the following actions relating to condominium association elections is a fraudulent voting activity and constitutes a misdemeanor of the first degree:

- Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.
- Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.
- Preventing a member from voting, or preventing a member from voting as he or she intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.
- Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when voting.
- Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This provision does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.
- Using or threatening to use, either directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on any particular ballot measure.

In addition, the bill provides that the following actions relating to condominium association elections are fraudulent voting activities and constitute a misdemeanor of the first degree:

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment. This does not apply to a licensed attorney giving legal advice to a client.

Removal from Office

The bill expands the criminal offenses for which an officer or director charged by information or indictment must be removed from office to include:

- Forgery of a ballot envelope or voting certificate used in a condominium association election punishable as a felony crime as provided in s. 831.01, F.S.; and
- Destruction of or refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime which is punishable as tampering with physical evidence as provided in s. 918.13, F.S., or as obstruction of justice as provided in ch. 843, F.S.

Under the bill, if a criminal charge is pending against an officer or director, he or she may not have access to the official records of any association, except pursuant to a court order.

Debit Card Usage

The bill provides that a person using a debit card that is issued to the association or billed the association for any expense that is not a lawful obligation of the association commits **theft under s. 812.014, F.S**, instead of being prosecuted as credit card fraud.

The bill defines "lawful obligation of the association" as an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget.

Director Education- Current Situation

Newly elected or appointed directors of the board of a residential condominium association are required to complete an educational curriculum or written certification. Within 90 days after being elected or appointed, a newly elected or appointed director for a condominium must certify that he or she:[36]

- Has read the declaration of condominium for all condominiums operated by the association and the declaration of condominium, articles of incorporation, bylaws, and current written policies;
- Will work to uphold such documents and policies to the best of his or her ability; and
- Will faithfully discharge his or her fiduciary responsibility to the association's members.

As an alternative to a written certification, the newly elected or appointed director may submit a certificate of satisfactory completion of the educational curriculum within one year before the election or 90 days after the election or appointment.[37] The curriculum must be administered by a condominium education provider approved by the Division.[38] A certification is valid and does not have to be resubmitted as long as the director continuously serves on the board.

A board member is suspended from service on the board until he or she files the written certification or submits a certificate of completion of the educational curriculum.[39] If a suspension occurs, the board may temporarily fill the vacancy during the period of suspension. The secretary of the association must keep the written certification or educational certificate for inspection by the members for five years after a board director's election or the duration of the director's uninterrupted tenure, whichever is longer.[40] The validity of any action by the condominium board is not affected by the association's failure to have the certification on file.[41]

Director Education- Effect of the Bill

The bill provides that:

- An existing director and a newly elected or an appointed director is required to submit both the writing certification and a certificate of completing the educational curriculum.
- Such educational curriculum may also be administered by the Division.
- A director of a residential condominium that was elected or appointed before July 1, 2024 must comply with the written certification and educational certificate requirement by June 2025.
- The written certification **and** educational certificate are valid **for 7 years after the date of issuance** and does not have to be resubmitted as long as the director serves on the board without interruption during a **7-year period.**
- A director who is appointed by the developer may satisfy the educational certificate requirement for any subsequent appointment to a board by a developer within 7 years after the date of issuance of the most recent educational certificate, including any interruption of service on a board or appointment to a board in another association within that 7-year period.
- After the certificates are submitted, directors are required to annually submit to the secretary of the association a certificate of having satisfactorily completed an educational curriculum administered

[36] S. 718.112(2)(d)4.b., F.S.
[37] The Division's Internet site provides a listing of approved educational providers for the certification of board members. *See* Department of Business and Professional Regulation, *Condominium & Cooperatives – Education, available at*: http://www.myfloridalicense.com/DBPR/condominiums-and-cooperatives/education/ (last visited Jan. 30, 2024).
[38] S. 718.112(2)(d)4.b., F.S.
[39] *Id.*
[40] *Id.*
[41] *Id.*

by the Division, or Division-approved condominium education provider, relating to any recent changes.

Conflicts of Interest for Directors and Officers- Current Situation

An officer or director of an association, and their relatives, must disclose to the board any activity that may be construed as a conflict of interest. A rebuttable presumption of a conflict of interest exists if, without prior notice:[42]

- Any director, officer, or relative[43] of a director or officer enters into a contract for goods or services with the association; or
- Any director, officer, or relative holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract with the association.

Timeshare condominiums are exempted from this provision.[44]

If a director, officer, or relative of a director or officer proposes to engage in an activity that is a conflict of interest, the proposed activity must be listed on the meeting agenda and all contracts and transactional documents for the proposed activity must attached to the meeting agenda. The board must provide all these documents to the unit owners as well.[45]The interested director or officer may attend the meeting at which the contract is considered and may make a presentation to the board regarding the activity. After the presentation, the director, officer, or relative must leave the room. Any director or officer who has an interest in the contract must recuse himself or herself from the vote.[46] Approval of the contract or other transaction requires an affirmative vote of two-thirds of all other directors present. [47]

If the board rejects the proposed contract, the director, officer, or relative must notify the board in writing of his or her intent not to pursue the contract further or the director or officer must withdraw from office. If the board finds that a director or officer has not notified it of his or her intent to pursue the contract further, the officer or director is deemed removed from office, and the vacancy must be filled according to general law,[48]

Any contract entered into between any director, officer, or relative that is not properly noticed before consideration by the board is voidable. The contract is terminated upon the filing of a written notice terminating the contract with the board of directors which contains the consent of at least 20 percent of the voting interests of the association. [49]

Conflicts of Interest for Directors and Officers- Effect of the Bill

The bill provides that the attendance of a director or an officer with a possible conflict of interest at the meeting of the board counts for purposes of quorum for the meeting. However, the vote on such matters containing a possible conflict of interest must occur in his or her absence on the proposed activity.

[42] S. 718.3027(1), F.S.
[43] "Relative" means in s. 718.3027, F.S. a relative within the third degree of consanguinity by blood or marriage.
[44] S. 718.3027(5), F.S.
[45] See s. 718.3027(2), F.S. "Upon motion of any member, the contract or transaction shall be brought up for a vote and may be canceled by a majority vote of the members present. If the contract is canceled, the association is only liable for the reasonable value of the goods and services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other form of penalty for such cancellation."
[46] S. 718.3027(4), F.S.
[47] S. 718.3027(2), F.S.
[48] S. 718.3027(3), F.S.
[49] S. 718.3027(5), F.S.

Structural Integrity Reserve Study and Reserves – Current Situation

A reserve study is a budget-planning tool for community associations. Generally, a reserve study consists of the following two parts: physical analysis and financial analysis.[50]

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:[51]

- Licensed engineer,
- Licensed architect, or
- person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts (CAIAPRA).

At a minimum, a SIRS must:[52]

- Identify each item of the condominium property being visually inspected,
- State the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of each item of the condominium property being visually inspected, and
- Provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each item of condominium property being visually inspected by the end of the estimated remaining useful life of the item.

The SIRS may recommend for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined or with an estimated remaining useful life of greater than 25 years:[53]

- That reserves do not need to be maintained, or
- A deferred maintenance expense amount for such item.

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):[54]

- Roof.
- Structure, including load-bearing walls and other primary structural members and primary structural systems.
- Fireproofing and fire protection systems.
- Plumbing.
- Electrical systems.
- Waterproofing and exterior painting.
- Windows and exterior doors.
- 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.

The SIRS requirements do not apply to:[55]

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[50] Cedar Management Group, *HOA Reserve Study: Why Does Your Community Need It?*, https://cedarmanagementgroup.com/hoa-reserve-study-community/#what (last visited Jab. 29, 2024); 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 Jan. 29, 2024).
[51] S. 718.112(2)(g)2., F.S.
[52] S. 718.112(2)(g)3., F.S.
[53] *Id*.
[54] S. 718.112(2)(g)1., F.S.
[55] S. 718.112(2)(g)4., F.S.

- Buildings less than three stories in height;
- Single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground;
- Any portion or component of a building that has not been submitted to the condominium form of ownership; or
- Any portion or component of a building that is maintained by a party other than the association.

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. However, an association that is required to complete a milestone inspection on or before December 31, 2026, may complete the SIRS simultaneously with the milestone inspection. In no event may the SIRS be completed after December 31, 2026.[56]

If a condominium or cooperative association willfully and knowingly fails to complete a SIRS, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners.[57]

Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report for each building on the condominium or cooperative property that is three stories or higher in height.[58]

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).[59]

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.[60]

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.[61] 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.[62]

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[56] S. 718.112(2)(g)6., F.S.
[57] S. 718.112(2)(g)8., F.S.
[58] S. 718.112(2)(g)5., F.S.
[59] S. 718.112(2)(f), F.S.
[60] S. 718.112(2)(f), F.S.
[61] *Id.*
[62] *Id.*; Rules 61B-22.005(3), and 61B-76.005(1), F.A.C.

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.[63] However, pooled reserves are not permitted for SIRS items listed in the statute as being required in the SIRS are permitted to be pooled.

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 reserve items that are required by the SIRS, 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. Associations may also vote to use reserve funds for purposes other than their intended purpose for items that are not included within the SIRS, by a majority of the voting interests present at a properly called meeting.[64]

Structural Integrity Reserve Study and Reserves – Effect of the Bill

The bill changes "deferred" maintenance to "planned" maintenance in the Condominium Act and the Cooperative Act.

Distribution of the Structural Integrity Reserve Study (Condominiums and Cooperatives)

The bill provides that the association is required within 45 days after the receipt of SIRS to:

- Distribute a copy of the SIRS to each unit owner; or
- Deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request.

The bill provides the manner in which the copy or the notice may be distributed. Distribution of a copy of the study or notice must be made by:

- United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements or,
- By electronic transmission to the e-mail address or facsimile number on file.

Recommendation for a Pause

The bill provides that the structural integrity reserve study may recommend a temporary pause in reserve funding or reduced reserve funding if:

- the condominium building or units are unsafe and uninhabitable due to substantial damage or loss as determined by the local enforcement agency, and
- It is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building safe and habitable.

However, the bill provides that reserve funding schedule must resume when the building has been declared safe for occupancy by the local enforcement agency.

Reserves

[63] Rules 61B-22.005(1), (3), and 61B-76.005(1), (3), F.A.C.
[64] S. 718.112(2)(f).

In addition to current requirements, the bill provides that members of an association may determine to provide no reserves or less reserves than required if:

- The condominium building or units are unsafe and uninhabitable due to substantial damage or loss as determined by the local enforcement agency, and
- It is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building or units safe and habitable.

The bill provides that an association may not opt for such waiver of reserve requirements after the building or units have been declared safe for occupancy by the local enforcement agency.

Financial Reporting- Current Situation

Condominium associations are required to complete an annual financial report of the previous year's financial activities and provide the report to unit owners. To comply with financial reporting requirements, associations must:[65]

- Complete an annual financial report for the previous fiscal year within 90 days after the end of the fiscal year, calendar year, or annually on a date provided in the bylaws;
- Provide unit or parcel owners the financial report or notice that the report is available upon request without charge within 21 days after the final financial report is completed by the condominium or received from the third party, but not later than 120 days after the end of the fiscal year or calendar year, or other date as provided in the bylaws; and
- Prepare financial statements according to generally accepted accounting principles and in a manner dictated by the total revenue of the association, specifically:
    - An association having total annual revenues between $150,000 and $300,000 must prepare compiled financial statements;
    - An association having total annual revenues between $300,000 and $500,000 must prepare reviewed financial statements;
    - An association having total revenues more than $500,000 must prepare audited financial statements; and
    - An association with total annual revenue of less than $150,000 must prepare a report of cash receipts and expenditures.

If a unit owner does not receive the financial report, he or she may contact the Division to report an association's failure to provide a copy of the financial report within the required time. If the Division determines that the association failed to provide the financial report in a timely manner, the Division requires the association to provide the financial report to the unit owner and the Division within five business days. If the association fails to comply with the Division's request, the association is prohibited from waiving the financial annual financial reporting requirements for the fiscal year in which the unit owner's request is made and the following fiscal year.

An association may vote to waive the annual financial reporting requirements and prepare a report of cash receipts and expenditures by approval of a majority of voting interests. Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also be effective for the following fiscal year.

Financial Reporting- Effect of the Bill

The bill prohibits an association from waiving the annual financial reporting requirements and preparing a report of cash receipts and expenditures by approval of a majority of voting interests for consecutive fiscal years.

Hurricane Protection- Current Situation

[65] S. 718.111(13), F.S,

Each board of administration of a residential condominium required to adopt specifications for each building within each condominium operated by the association which include:[66]

- Color;
- Style; and
- Other factors deemed relevant to the board.

All specifications adopted by the board must comply with the applicable building code. The board may, subject to the bidding process for contracts for goods and services and the approval of the of a majority of the voting interests of the residential condominium, install hurricane shutters, impact glass, code-complaint windows, or doors, or other types of code-complaint hurricane protection that comply or exceed the applicable building code.[67]

A condominium association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection if such property is the responsibility of the association pursuant to the declaration of condominium. If the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.[68]

The board is authorized to operate shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection installed without the permission of the unit owners only if such operation is necessary to preserve and protect the condominium property or and association property.[69] The installation, replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are not a material alteration to the common elements or association property.[70]

Notwithstanding any other provision in the residential condominium documents, if approval is required by the documents, a board may not refuse to approve the installation or replacement of hurricane protection by a unit owner conforming to the specifications adopted by the board.[71]

The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board constitutes a common expense and shall be collected by the association if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium.[72]

Further, a unit owner who has previously installed code-compliant shutters, impact glass, windows, or doors, must receive a credit when code-compliant shutters, impact glass, windows, or doors are installed.[73] A unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code, must receive a credit when the impact glass or code-compliant windows or doors are installed. A unit owner who has installed other types of code-compliant hurricane protection that comply with the currently applicable building code is entitled to

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[66] S. 718.113(5), F.S.
[67] S. 718.113(5)(a), F.S.
[68] S. 718.113(5)(b), F.S.
[69] S. 718.113(5)(c), F.S.
[70] S. 718.110, F.S., provides the procedure for amending the declaration of condominium. It provides that, "unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and unless all the record owners of all other units in the same condominium approve the amendment."
[71] S. 718.113(5)(d), F.S.
[72] S. 718.115(1)(e), F.S.
[73] S. 718.115(1)(e), F.S.

receive a credit when the same type of other code-compliant hurricane protection is installed, and the credit must be equal to the pro rata portion of the assessed installation cost assigned to each unit.

Hurricane Protection- Effect of the Bill

The bill defines "hurricane protection" as hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

The bill clarifies the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections exterior doors, windows, and glass apertures.

The bill requires the declarations of residential condominiums and mixed-use condominiums to describe the responsibilities of unit owners and associations for the costs of maintenance, repair, and replacement of hurricane protections. The bill provides that the hurricane protection provisions apply to all residential and **mixed-use condominiums** in Florida, regardless of when the condominium is created pursuant to the declaration.

The bill provides that the installation, maintenance, repair, replacement, and operation of hurricane protection in accordance with the hurricane protection requirements is not considered a material alteration or substantial addition to the common elements or association property.

A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The certificate must:

- Be recorded in the public records of the county where the condominium is located.
- Include the recording data identifying the declaration of the condominium and must be executed in the form required for the execution of a deed.

Once the certificate is recorded, the board must mail or hand-deliver a copy of the recorded certificate to the unit owners at the owners' address as reflected in the records of the association. The board may provide a copy of the recorded certificate by electronic transmission to unit owners who previously consented to receive notice by electronic transmission. The board's failure to record the certificate or to send a copy of the recorded certificate to the unit owners does not affect the validity or enforceability of the vote of the unit owners.

The bill provides that if hurricane protection that complies with or exceeds the current applicable building code has been previously installed, the board may not install the **same type of** hurricane protection **or require that unit owners install the same type of hurricane protection unless the unit owners installed hurricane protection has reached the end of its useful life or it is necessary to prevent damage to the common elements or the unit**.

The bill allows the board to require that unit owners adhere to an existing unified building scheme regarding the external appearance of the condominium.

Regarding a unit owner's responsibility for the costs of installation or removal of hurricane protection, the bill provides that the unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection if:

- The unit owner installed the hurricane protection and
- Its removal is necessary for the maintenance, repair, or replacement of the condominium property or association property for which the association is responsible.

If such removal or installation is completed by the association, the association may not charge that cost to the unit owner. If such installation of removal is completed by the unit owner, the association must reimburse the unit owner for the cost or apply the cost as a credit toward future assessments.

Under the bill, the board must determine if the removal or reinstallation of hurricane protection is the responsibility of the unit owner, including costs, and if such removal or reinstallation is completed by the association, then the costs incurred by the association may be charged to the unit owner. If the association charges a unit owner for the removal or installation of hurricane protection, such charges are enforceable as an assessment and may be collected as such.

The bill deletes the requirement that the expense of installation, replacement, operation, repair, and maintenance of hurricane protection by the board constitutes a common expense and must be collected as a common expense if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium.

The bill deletes the requirement that a unit owner who previously installed hurricane shutters that comply with the current applicable building codes receive a credit when the shutters are installed. The bill provides that a unit owner who has previously installed such items must receive a credit when the impact glass or code-compliant windows or doors are installed.

The bill provides, notwithstanding the limitation in s. 718.116(9), F.S. and regardless of what the declaration states about the responsibility of hurricane protection, an owner **of a unit in which** hurricane protection that **complies** with the current applicable building code **has been installed is excused from any assessment levied by the association** or will receive a credit **if** the same type of hurricane protection is installed **by the association**.

Credit is applicable if the installation of hurricane protection is for all other units that do not have hurricane protection and the cost of such installation is funded by the association's budget, including the use of reserve funds.

The bill adds that the credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection and that expenses for the installation, replacement, operation, repair, or maintenance of hurricane protection on common elements and association property are common expenses.

Assessments – Current Situation

Current law gives condominium associations the ability to levy and collect assessments from unit or parcel owners. This allows the association to carry out its responsibility for the association's management, operation, and maintenance.[74] In addition to levying assessments, associations also have the power to establish the time when each assessment is due, including when an assessment becomes delinquent.[75]

The most common assessments are those required to fund an association's common expenses identified in an association's annual budget. The amount to fund the common expenses and the assessments required to meet that amount are determined when an association's budget is adopted.[76] In contrast, a special assessment is an assessment levied against unit or parcel owners for unexpected expenses that are over and above those anticipated by the annual budget.[77]

When the amount of an assessment has been determined, the association must establish a payment schedule for the owners in accordance with the association's bylaws. For condominium and cooperative associations, payments must be made in advance and they must be paid at least quarterly. The payments must be sufficient to provide the funds necessary to pay all the anticipated operating expenses and all unpaid expenses previously incurred.[78]

[74] S. 718.111(4), F.S.
[75] *See generally*, ch. 718, F.S.
[76] Ss. 718.103(1), 718.112(2)(f), F.S.
[77] Ss. 718.103(24), 718.116(10), F.S.
[78] Ss. 718.112(2)(g), F.S.

A unit or parcel owner may not avoid paying assessments by waiving the use of common elements or services in the association. No unit or parcel owner may be relieved from liability for all or part of an assessment.[79] Boards must keep account of the assessments levied against every unit or parcel owner and the assessments paid by every owner. These records are part of the association's official records.[80]

A unit or parcel owner is liable for all assessments coming due while he or she owns the unit or parcel. The unit or parcel serves as security for the payment of all assessments owed by an owner.[81] An association has a lien for all unpaid assessments, but not for unpaid fines. An association may file a claim of lien for a delinquent assessment with the Clerk of Court in the county where the association is located.[82]

Assessments- Effect of the Bill

The bill makes conforming changes.

Record in Public Record

The bill requires notices of a special assessment and contingent special assessments to be recorded in the public record.

Line of Credit

In addition to current requirements, the bill provides that in place of a special assessment to fund needed repairs, maintenance, or replacement of a building component recommended by a milestone inspection requirement or structural reserve study, or unanticipated repairs, the board of a unit-owner-controlled association may approve contingent assessments for the association to provide available funding to pay for such repairs, maintenance, or replacement. The association must record a declaration of special assessments evidencing the levy of such special assessments in the public records.

The bill provides that the funds from a line of credit must be immediately available for the board to fund required repairs, maintenance, or replace expenses without further approval by the members of the association.

The bill allows an association to secure a line of credit and assess a contingent special assessment to meet the reserve funding schedule recommended by the structural integrity reserve study for a budget adopted on December 31, 2029. Otherwise, such line of credit and special contingent may not be used as an alternative to the association's reserve funding requirements.

Prohibition against SLAPP Suits- Current Situation

Generally, "strategic lawsuits against public participation" (SLAPP) are legal actions brought against individuals for speaking out on issues that are important to the public in an effort to silence or discourage such individuals from speaking out. In the association context, a SLAPP suit may be related to an association member's exercise of their rights of free speech and assembly, which may be based on their appearance and presentation before a governmental entity on matters related to the condominium association.[83]

[79] Ss. 718.111(4), 718.116(1)(a), F.S.
[80] S. 718.111(12)(a), F.S.
[81] S. 718.111(4), F.S.
[82] Ss. 718.116(5), 718.303(3), F.S.
[83] S. 718.1224(1), F.S.

Florida has adopted anti-SLAPP laws[84]in the association context which prohibit governmental entities, business organizations, and individuals from filing or causing to be filed:

- Any lawsuit,
- Cause of action,
- Claim,
- Cross-claim, or counterclaim against a condominium unit owner without merit and
- Solely because such condominium unit owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.[85]

Current law does not specifically prohibit condominium associations from engaging in SLAPP suits, instead the prohibition generally applies to governmental entities, business organizations, and individuals.

The unit owners sued by a governmental entity, business organization, or individual have a right to an expeditious resolution of such an action, including the right to petition for a motion to dismiss or for a summary judgment. The court may award the unit owner actual damages for a violation of this prohibition and may also award treble damages. However, the court must state a basis for an award of treble damages. The court is further required to award the prevailing party reasonable attorney's fees and costs. Governmental entities, business organizations, individuals, and condominium associations[86] are barred from expending funds in prosecuting a SLAPP suit against a unit owner.

Prohibition against SLAPP Suits and Other Prohibited Actions- Effect of the Bill

The bill clarifies that a condominium association cannot engage in SLAAP suits.

The bill specifically prohibits condominium associations from:

- Retaliating against a unit owner, by imposing or threatening:
  - A fine,
  - An increase in a unit's assessments,
  - To bring or bringing an action for possession or
  - other civil action, including a defamation, libel, slander, or tortious interference action.
- Spending association funds in support of defamation, libel, or tortious interference actions against a unit owner.

The bill allows the unit owner to present evidence of retaliatory conduct as a defense in any action brought against him or her for possession. The bill provides that a unit owner may use the defense of retaliatory conduct if the unit owner acted in good faith and not for any improper purposes. The bill provides that an improper purpose includes:

- Harassment;
- Cause unnecessary delay or for frivolous purpose; or
- Needless increase in the cost of litigation.

The bill provides examples of conduct for which a condominium association, an officer, a director, or an agent of an association are prohibited from retaliating include, but are not limited to, situations in which:

- The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;
- The unit owner has organized, encouraged, or participated in a unit owners' organization;
- The unit owner submitted information or filed a complaint alleging criminal violations or violations of the Condominium Act or rules of the Division, with:

[84] Florida also has general anti-SLAPP laws that prohibit suits for exercising their right to free speech and assembly. S. 768.295, F.S.
[85] S. 718.1224, F.S.
[86] S. 718.1224(4), F.S.

    - The Division;
    - Office of the Condominium Ombudsman;
    - A law enforcement agency;
    - A state attorney;
    - The Attorney General; or
    - Any other governmental agency.
- The unit owner has exercised his or her rights under the Condominium Act;
- The unit owner has complained to the association or any of the association's representatives for the failure to comply with the Condominium Act or Corporations Not For Profit Act; or
- The unit owner has made public statements critical of the operation or management of the association.

In addition, the bill prohibits associations from expending association funds in support of a defamation, libel, slander, or tortious interference action against a unit owner or any other claim against a unit owner based on such retaliatory conduct.

The Division's Duties and Authority – 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, and the procedural completion of structural reserve studies.[87]

If a person believes there is a violation of the Condominium 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. For purposes of any investigation, the Division director or any officer or employee designated by the Division director may:[88]

- Administer oaths or affirmations,
- Subpoena witnesses and compel their attendance,
- Take evidence, and
- Require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

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:[89]

- Enter into a voluntary consent proceeding with the person who violated the Condominium Act where he or she consents to stopping the violation.
- Issue a cease and desist order.
- 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, the Division may conduct investigations, take sworn statements, receive evidence, and subpoena individuals and documentation. If the Division 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.[90]

[87] S. 718.501(1), F.S.
[88] S. 718.501(1)(c), F.S
[89] S. 718.501(1)(d), (m), F.S.
[90] S. 718.501(1)(c), F.S.

Annual Report

The Division is required to submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report by September 30 following the end of the fiscal year that includes:[91]

The number of training programs provided for condominium association board members and unit owners;

The number of complaints received by type;

- The number and percent of complaints acknowledged in writing within 30 days;
- The number and percent of investigations acted upon within 90 days;[92]
- The number of investigations exceeding the 90-day requirement;
- An evaluation of the Division's core business processes; and
- Make recommendations for improvements, including statutory changes.

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.[93] 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.[94]

Alternative dispute resolution is required for any disagreements between two or more parties that involves:[95]

- 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;[96]
- The board of directors' failure to:
    - Properly conduct elections;
    - Give adequate notice of meetings or other actions;
    - 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: [97]

- 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.[98]

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[91] S. 718.501(1)(s), F.S.
[92] In accordance with s. 718.501(1)(m), F.S.
[93] S. 718.1255, F.S.
[94] S. 718.1255(3)(b), F.S.,
[95] S. 718.1255(1)(a), F.S.
[96] *Id.*
[97] *Id.*

Arbitration is binding on the parties if all parties in arbitration agree to be bound in a writing filed in the arbitration,[99] 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.[100]

The filing fee for a petition to the Division to initiate nonbinding arbitration or pre-suit mediation is $50.[101] 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.[102]

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.[103]

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.[104]

The bylaws for condominium and cooperative associations must provide for mandatory dispute resolution.[105]

The Division's Duties and Authority – Effect of the Bill

The bill removes a limitation on the Division's jurisdiction related to only investigating complaints related to financial issues, elections, and unit owner access to official records once a developer has turned over control of the condominium to the association.
The bill requires the Division to refer to local law enforcement authorities any person whom the Division believes has engaged in fraud, theft, embezzlement, or other criminal activity or has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.

The bill provides that the Division director, any officer or employee of the Division, the condominium ombudsman, or employee of the Office of the Condominium Ombudsman[106], may attend and observe any meeting of the board of administration or unit owner meeting, including any meeting of a subcommittee or special committee, that is open to members of the association for the purpose of performing the duties of the Division or the Office of the Ombudsman.

The bill requires the Division to routinely conduct random audits of condominium associations to determine compliance with the website or application requirements for official records under s. 718.111(12)(g).

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[98] S. 718.1255(5), F.S.
[99] S. 718.1255(4)(a), F.S.
[100] S. 718.1255(4)(k), F.S.
[101] S. 718.1255(4)(a), F.S.
[102] S. 718.1255(2), F.S.
[103] *Id.*
[104] S. 720.311(2)(b), F.S.
[105] Ss. 718.112(2)(k), F.S., relating to condominium and cooperative associations, respectively.
[106] Ss. 718.5011-50152, F.S

The bill requires the Division submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees and appropriate substantive committees, a review of the website or application requirements for official records under s. 718.111(12)(g), F.S., and make recommendations regarding any additional official records of a condominium association that should be included in the record maintenance requirement in the provision.

B. SECTION DIRECTORY:

Section 1: Amends 468.4334, F.S., relating to professional practice standards.
Section 2: Creates s. 468.4335, F.S., relating to conflicts of interest.
Section 3: Amends s. 468.436, F.S., relating to disciplinary proceedings.
Section 4: Amends s. 718.103, F.S., relating to definitions.
Section 5: Amends s. 718.104, F.S., relating to the hurricane protection.
Section 6: Amends s. 718.111, F.S, relating to the association.
Section 7: Amends s. 718.111, F.S, relating to the association, effective January 1, 2026.
Section 8: Amends s. 718.112, F.S., relating to bylaws.
Section 9: Amends s. 718.113, F.S., relating to hurricane protection.
Section 10: Amends s. 718.115, F.S., relating to common expenses and common surplus.
Section 11: Amends s. 718.116, F.S., relating to assessments.
Section 12: Amends s. 718.121, F.S., relating to liens.
Section 13: Amends s. 718.1224, F.S., relating to SLAPP suits.
Section 14: Amends s. 718.301, F.S, relating to transfer of association control.
Section 15: Amends s. 718.3027, F.S., relating to conflicts of interest.
Section 16: Amends s. 718.303, F.S., relating to obligations of owners and occupants.
Section 17: Amends s. 718.501, F.S., relating to authority and duties of the Division.
Section 18: Amends s. 718.618, F.S., making conforming changes.
Section 19: Amends s. 719.106, F.S., relating to bylaws; cooperative ownership.
Section 20: Amends s. 719.301, F.S., relating to transfer of association control.
Section 21: Amends s. 719.618, F.S., making conforming changes.
Section 22: Provides that the Division is required to submit a report.
Section 23: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate negative fiscal impact.

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:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Division may create a Division-approved education curriculum. The Division may have to generate rules regarding additional duties and enforcement provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor has indicated that she is planning to file an amendment making clarifications and other changes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to community associations; amending s. 468.4334, F.S.; requiring community association managers and community association management firms to return official records of an association within a specified time after termination of a contract; providing a rebuttable presumption regarding noncompliance; providing penalties for the failure to timely return official records; creating s. 468.4335, F.S.; requiring community association managers and community association management firms to disclose certain conflicts of interest to the association's board; providing a rebuttable presumption as to the existence of a conflict; requiring an association to consider multiple bids for goods or services under certain circumstances; providing requirements for an association to approve any activity that is a conflict of interest; authorizing certain contracts to be canceled, subject to certain requirements; specifying liability and nonliability of the association upon cancellation of such a contract; authorizing an association to cancel a contract if certain conflicts were not disclosed; specifying liability and nonliability of the association upon cancellation of a contract; defining the term "relative"; reenacting and

amending s. 468.436, F.S.; revising the list of grounds for which the Department of Business and Professional Regulation may take disciplinary actions against community association managers or community association firms; amending s. 718.103, F.S.; revising and providing definitions; amending s. 718.104, F.S.; requiring declarations to specify the entity responsible for the installation, maintenance, repair, or replacement of hurricane protection; amending s. 718.111, F.S.; providing criminal penalties for any officer, director, or manager of an association who unlawfully solicits, offers to accept, or accepts any thing or service of value or kickback; revising the list of records that constitute the official records of an association; revising maintenance requirements for official records; revising requirements regarding requests to inspect or copy association records; requiring an association to provide a checklist and affidavit in response to certain records requests; providing a rebuttable presumption and criminal penalties; defining the term "repeatedly"; requiring copies of certain building permits be posted on an association's website or application; modifying the method of delivery of certain letters regarding association financial reports to unit owners; revising

circumstances under which an association may prepare certain reports; revising criminal penalties for persons who unlawfully use a debit card issued in the name of an association; defining the term "lawful obligation of the association"; revising the threshold for associations that must post certain documents on its website or through an application; amending s. 718.112, F.S.; requiring the boards of certain associations to meet a minimum number of times each year; revising requirements regarding notice of such meetings; requiring a director to complete an educational requirement within a specified time period before or after election or appointment to the board; providing transitional provisions; requiring a director to complete educational requirements each year relating to changes in the law; requiring an association's budget to include reserve amounts for planned maintenance, in lieu of deferred maintenance; authorizing members of an association to waive reserves or reduce reserves under certain circumstances and for a limited time; requiring an association to distribute or deliver copies of a structural integrity reserve study to unit owners within a specified timeframe; specifying the manner of distribution or delivery; authorizing certain boards

to approve contingent special assessments in order to secure a line of credit under certain circumstances; specifying requirements and limitations for any line of credit secured; revising the circumstances under which a director or an officer must be removed from office after being charged by information or indictment of certain crimes; prohibiting such officers and directors with pending criminal charges from accessing the official records of any association; providing an exception; providing criminal penalties for certain fraudulent voting activities relating to association elections; amending s. 718.113, F.S.; providing applicability; specifying that certain actions are not material alterations or substantial additions; authorizing the boards of residential and mixed-use condominiums to install or require unit owners to install hurricane protection; requiring a vote of the unit owners for the installation of hurricane protection; requiring that such vote be attested to in a certificate and recorded in certain public records; providing requirements for such certificate; providing that the validity or enforceability of a vote is not affected if the board fails to take certain actions; providing that a vote of the unit owners is not required under certain

circumstances; prohibiting installation of the same type of hurricane protection previously installed; providing exceptions; prohibiting the boards of residential and mixed-use condominiums from refusing to approve certain hurricane protections; authorizing the board to require owners to adhere to certain guidelines regarding the external appearance of a condominium; revising responsibility for the cost of the removal or reinstallation of hurricane protection, including exterior windows, doors, or apertures; prohibiting the association from charging certain expenses to unit owners; requiring reimbursement or a credit toward future assessments to the unit owner in certain circumstances; authorizing the association to collect certain charges and specifying that such charges are enforceable as assessments under certain circumstances; amending s. 718.115, F.S.; specifying when the cost of installation of hurricane protection is not a common expense; authorizing certain expenses to be enforceable as assessments; requiring certain unit owners to be excused from certain assessments or to receive a credit for hurricane protection that has been installed; providing credit applicability under certain circumstances; providing for the amount of credit that a unit owner must receive; specifying that

certain expenses are common expenses; amending s. 718.116, F.S.; requiring that the written notice of certain assessments be recorded in the public records; amending s. 718.121, F.S.; conforming a cross-reference; amending s. 718.1224, F.S.; revising legislative findings and intent; revising the definition of the term "governmental entity"; prohibiting an association from filing strategic lawsuits, taking certain actions against unit owners, and expending funds to support certain actions; amending s. 718.301, F.S.; requiring developers to deliver a structural integrity reserve report to an association upon relinquishing control of the association; amending s. 718.3027, F.S.; revising requirements regarding attendance at a board meeting in the event of a conflict of interest; modifying circumstances under which a contract may be voided; amending s. 718.303, F.S.; requiring that a notice of nonpayment be provided to a unit owner by a specified time before an election or a vote of association members; amending s. 718.501, F.S.; revising circumstances under which the Division of Florida Condominiums, Timeshares, and Mobile Homes has jurisdiction to investigate and enforce certain matters; requiring that the division provide official

records, without charge, to a unit owner denied access; requiring the division to provide an educational curriculum free of charge and issue a certificate to directors of a board of administration; requiring that the division refer suspected criminal acts to the appropriate law enforcement authority; authorizing certain division officials to attend association meetings; requiring that the division conduct random audits of associations for specified purposes; requiring an association's annual fee be filed concurrently with the annual certification; specifying requirements for the annual certification; amending s. 718.618, F.S.; conforming a provision to changes made by the act; amending s. 719.106, F.S.; requiring that a cooperative association's budget include reserve amounts for planned maintenance, in lieu of deferred maintenance; requiring an association to distribute or deliver copies of a structural integrity reserve study to unit owners within a specified timeframe; specifying the manner of distribution or delivery; amending s. 719.301, F.S.; requiring developers to deliver a structural integrity reserve study to a cooperative association upon relinquishing control of association property; amending s. 719.618, F.S.; conforming a provision to

changes made by the act; requiring the division to conduct a review of statutory requirements regarding posting of official records on a condominium association's website or application; requiring the division to submit its findings, including any recommendations, to the Governor and the Legislature by a specified date; providing effective dates.

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

Section 1. Subsection (3) is added to section 468.4334, Florida Statutes, to read:

468.4334 Professional practice standards; liability.—

(3) A community association manager or a community association management firm shall return all community association official records within its possession to the community association within 20 business days after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request for return of the official records, whichever occurs first. Failure of a community association manager or a community association management firm to timely return all of the official records within its possession to the community association creates a rebuttable presumption that the manager or firm willfully failed to comply with this subsection. A

community association manager or a community association management firm that fails to timely return community association records is subject to suspension of its license under s. 468.436, and a civil penalty of $1,000 per day for a maximum of 10 days, assessed beginning on the 21st day after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request from the association for return of the records, whichever occurs first.

Section 2. Section 468.4335, Florida Statutes, is created to read:

468.4335 Conflicts of interest.—

(1) A community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, must disclose to the board of a community association any activity that may reasonably be construed to be a conflict of interest. A rebuttable presumption of a conflict of interest exists if any of the following occurs without prior notice:

(a) A community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, enters into a contract for goods or services with the association.

(b) A community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, holds an interest in a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

(2) If the association receives and considers a bid to provide a good or service, other than community association management services, from a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, the association must also consider at least three bids from other third-party providers of such good or service.

(3) If a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, proposes to engage in an activity that is a conflict of interest as described in subsection (1), the proposed activity must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the meeting agenda

of the next board of administration meeting. The disclosures of a possible conflict of interest must be entered into the written minutes of the meeting. Approval of the contract or other transaction requires an affirmative vote of two-thirds of all other directors present. At the next regular or special meeting of the members, the existence of the contract or other transaction must be disclosed to the members. Upon motion of any member, the contract or transaction must be brought up for a vote and may be canceled by a majority vote of the members present. If the contract is canceled, the association is liable only for the reasonable value of the goods and services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other form of penalty for such cancellation.

(4) If the board finds that a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, has violated this section, the association may cancel its community association management contract with the community association manager or the community association management firm. If the contract is canceled, the association is liable only for the reasonable value of the management services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other form of

penalty for such cancellation.

(5) If an association enters into a contract with a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, which is a party to or has an interest in an activity that is a possible conflict of interest as described in subsection (1) and such activity has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section, the contract is voidable and terminates upon the association filing a written notice terminating the contract with its board of directors which contains the consent of at least 20 percent of the voting interests of the association.

(6) As used in this section, the term "relative" means a relative within the third degree of consanguinity by blood or marriage.

Section 3. Paragraph (b) of subsection (2) of section 468.436, Florida Statutes, is amended, and subsection (4) of that section is reenacted, to read:

468.436 Disciplinary proceedings.—

(2) The following acts constitute grounds for which the disciplinary actions in subsection (4) may be taken:

(b)1. Violation of ~~any provision of~~ this part.

2. Violation of any lawful order or rule rendered or

adopted by the department or the council.

3. Being convicted of or pleading nolo contendere to a felony in any court in the United States.

4. Obtaining a license or certification or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.

5. Committing acts of gross misconduct or gross negligence in connection with the profession.

6. Contracting, on behalf of an association, with any entity in which the licensee has a financial interest that is not disclosed.

7. Failing to disclose any conflict of interest as required by s. 468.4335.

8.~~7.~~ Violating ~~any provision of~~ chapter 718, chapter 719, or chapter 720 during the course of performing community association management services pursuant to a contract with a community association as defined in s. 468.431(1).

(4) When the department finds any community association manager or firm guilty of any of the grounds set forth in subsection (2), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the community association manager on probation for a period of time and subject to such conditions as the department specifies.

(f) Restriction of the authorized scope of practice by the community association manager.

Section 4. Subsections (19) through (32) of section 718.103, Florida Statutes, are renumbered as subsections (20) through (33), respectively, subsection (1) is amended, and a new subsection (19) is added to that section, to read:

718.103 Definitions.—As used in this chapter, the term:

(1) "Alternative funding method" means a method approved by the division for funding the capital expenditures and planned ~~deferred~~ maintenance obligations for a multicondominium association operating at least 25 condominiums which may reasonably be expected to fully satisfy the association's reserve funding obligations by the allocation of funds in the annual operating budget.

(19) "Hurricane protection" means hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

Section 5. Paragraph (p) is added to subsection (4) of section 718.104, Florida Statutes, to read:

718.104 Creation of condominiums; contents of

declaration.—Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(p) For both residential condominiums and mixed-use condominiums, a statement that specifies whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property.

Section 6. Paragraph (a) of subsection (1) and subsections (12), (13), and (15) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(a) The operation of the condominium shall be by the association, which must be a Florida corporation for profit or a Florida corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. It is the intent of the Legislature that nothing in this paragraph shall be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the

association and the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value or kickback commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil penalty pursuant to s. 718.501(1)(d) ~~and, if applicable, a criminal penalty as provided in paragraph (d)~~. However, this paragraph does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs. An association may operate more than one condominium.

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer under s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. ~~The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided~~ In accordance with sub-subparagraph (c)5.e., the e-mail addresses and facsimile numbers are only accessible to unit owners if consent to receive notice by electronic transmission is provided ~~(c)3.e~~. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. All invoices, transaction receipts, deposit slips, or other underlying documentation that substantiates any receipt or expenditure of funds by the association.

c.~~b.~~ A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

d.~~c.~~ All audits, reviews, accounting statements,

structural integrity reserve studies, and financial reports of the association or condominium. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

e.~~d.~~ All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. A copy of the inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.

16. Bids for materials, equipment, or services.

17. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

18. A copy of all building permits issued for ongoing or planned construction.

19.~~18.~~ All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. The official records must be maintained in an organized manner that facilitates inspection of the records by a unit owner. The obligation to maintain official records includes the obligation to obtain and recreate those records to the fullest extent possible in the event that the records are lost, destroyed, or otherwise unavailable. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph and paragraph (c) may be complied with by having a copy of the official records of the association available for

inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet as provided under paragraph (g) or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in compliance with this chapter unless the association has an affirmative duty not to disclose such information under this chapter.

(c)1.a. ~~(c)1.~~ The official records of the association are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member and of the person authorized by the association member as a representative of such member. A renter of a unit has a right to inspect and copy only the declaration of condominium, the association's bylaws and rules, and the inspection reports described in ss. 553.899 and 718.301(4)(p). The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10

working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. If the requested records are posted on an association's website, the association may fulfill its obligations as provided under this paragraph by directing to the website all persons authorized to request access to official records pursuant to this paragraph.

b. In response to a statutorily compliant written request to inspect records, the association must simultaneously provide to the requestor a checklist of all records made available for inspection and copying and a sworn affidavit in which the person facilitating or handling the association's compliance with the request attests to the veracity of the checklist provided to the requestor. The checklist must also identify any of the association's official records that were not made available to the requestor. An association must maintain a checklist provided under this sub-subparagraph for 7 years. An association

delivering a checklist and affidavit pursuant to this sub-subparagraph creates a rebuttable presumption that the association has complied with this paragraph.

2. A director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period.

3.~~2.~~ Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d).

4. A person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

5.~~3.~~ The association shall maintain an adequate number of

copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the documents. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records are not accessible to unit owners:

a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney's express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in

anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

b. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this sub-subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit owners a directory containing the name, unit address, and all telephone numbers of each unit owner.

However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

h. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

(d) The association shall prepare a question and answer sheet as described in s. 718.504, and shall update it annually.

(e)1. The association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the condominium or the association other than information or documents required by this chapter to be made available or disclosed. The association or its authorized agent may charge a reasonable fee to the prospective purchaser,

lienholder, or the current unit owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed $150 plus the reasonable cost of photocopying and any attorney's fees incurred by the association in connection with the response.

2. An association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy."

(f) An outgoing board or committee member must relinquish all official records and property of the association in his or her possession or under his or her control to the incoming board within 5 days after the election. The division shall impose a civil penalty as set forth in s. 718.501(1)(d)6. against an outgoing board or committee member who willfully and knowingly fails to relinquish such records and property.

(g)1. By January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to

each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a

structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or contract for the

preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall deliver ~~mail~~ to each unit owner by United States mail or personal delivery at the mailing address, property address, e-mail address, or facsimile number provided to fulfill the association's notice requirements ~~at the address last furnished to the association by the unit owner, or hand deliver to each unit owner~~, a copy of the management letter or opinion letter, as applicable, for the most recent financial report, and ~~or~~ a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and addressing the financial reporting requirements for multicondominium associations. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves

funded via the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements must be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of $150,000 or more, but less than $300,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least $300,000, but less than $500,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of $500,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than $150,000 shall prepare a report of cash receipts and expenditures.

2. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and

management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, planned ~~deferred~~ maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare, without a meeting of or approval by the unit owners:

1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is required to prepare compiled financial statements; or

3. Audited financial statements if the association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. An association may not prepare a financial report pursuant to this paragraph for consecutive fiscal years, ~~except that the approval may also be effective for the following fiscal year~~. If the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of the association's financial reports, from the date of incorporation of the association through the end of the second fiscal year after the fiscal year in which the certificate of a surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit is recorded, whichever occurs first. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer if done before turnover of control of the association.

(e) A unit owner may provide written notice to the

division of the association's failure to mail or hand deliver him or her a copy of the most recent financial report within 5 business days after he or she submitted a written request to the association for a copy of such report. If the division determines that the association failed to mail or hand deliver a copy of the most recent financial report to the unit owner, the division shall provide written notice to the association that the association must mail or hand deliver a copy of the most recent financial report to the unit owner and the division within 5 business days after it receives such notice from the division. An association that fails to comply with the division's request may not waive the financial reporting requirement provided in paragraph (d) for the fiscal year in which the unit owner's request was made and the following fiscal year. A financial report received by the division pursuant to this paragraph shall be maintained, and the division shall provide a copy of such report to an association member upon his or her request.

(15) DEBIT CARDS.—

(a) An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expense.

(b) A person who uses ~~Use of~~ a debit card issued in the name of the association, or billed directly to the association,

for any expense that is not a lawful obligation of the association commits theft under s. 812.014. For the purposes of this paragraph, the term "lawful obligation of the association" means an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget ~~may be prosecuted as credit card fraud pursuant to s. 817.61~~.

Section 7. Effective January 1, 2026, paragraph (g) of subsection (12) of section 718.111, Florida Statutes, as amended by this act, is amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(g)1. ~~By January 1, 2019,~~ An association managing a condominium with 25 ~~150~~ or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or

an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the

articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss.

468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be

accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 8. Paragraphs (c), (d), (f), (g), (i), and (q) of subsection (2) of section 718.112, Florida Statutes, are amended, and paragraph (r) is added to that subsection, 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:

(c) *Board of administration meetings.*—In a residential condominium association of more than 10 units, the board of administration shall meet at least four times each year for the

purpose of responding to inquiries from members and informing members on the state of the condominium, including the status of any construction or repair projects, the status of the association's revenue and expenditures during the fiscal year, or other issues affecting the association. Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail. A unit owner may tape record or videotape the meetings. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose. An item not included on the notice may be taken up on an

emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting. Written notice of a meeting at which a nonemergency special assessment or an amendment to rules regarding unit use will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association. ~~Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments.~~

2. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property at which ~~where~~ all notices of board meetings must be posted. If there is no condominium property at which ~~where~~ notices can be posted, notices shall be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the meeting. In lieu of or in addition to the physical posting of the notice on the condominium property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and

the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website at which ~~where~~ the notice is posted, to unit owners whose e-mail addresses are included in the association's official records.

3. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and

provide the estimated cost and description of the purposes for such assessments. If an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice.

4.~~2.~~ Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this section, unless those meetings are exempted from this section by the bylaws of the association.

5.~~3.~~ Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners does not apply to:

a. Meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice; or

b. Board meetings held for the purpose of discussing personnel matters.

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners must be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held

within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member's term

limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any assessment due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. For purposes of this paragraph, a person

is delinquent if a payment is not made by the due date as specifically identified in the declaration of condominium, bylaws, or articles of incorporation. If a due date is not specifically identified in the declaration of condominium, bylaws, or articles of incorporation, the due date is the first day of the assessment period. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must

include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property at which ~~where~~ all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any

of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website at which ~~where~~ the notice is posted, to unit owners whose e-mail addresses are included in the association's official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person

providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists

all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an

election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. A director of a ~~Within 90 days after being elected or appointed to the~~ board of an association of a residential condominium~~, each newly elected or appointed director~~ shall:

(I) Certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members.

(II) Submit to the secretary of the association ~~In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit~~ a certificate of having satisfactorily completed the educational curriculum administered by the division or a division-approved condominium education provider ~~within 1 year before or 90 days after the date of election or appointment~~.

Each newly elected or appointed director must submit to the secretary of the association the written certification and educational certificate within 1 year before being elected or appointed or 90 days after the date of election or appointment.

A director of an association of a residential condominium who was elected or appointed before July 1, 2024, must comply with the written certification and educational certificate requirements in this sub-subparagraph by June 30, 2025. The written certification and ~~or~~ educational certificate is valid for 7 years after the date of issuance and does not have to be resubmitted as long as the director serves on the board without interruption during the 7-year period. A director who is appointed by the developer may satisfy the educational certificate requirement in sub-sub-subparagraph (II) for any subsequent appointment to a board by a developer within 7 years after the date of issuance of the most recent educational certificate, including any interruption of service on a board or appointment to a board in another association within that 7-year period. One year after submission of the most recent written certification and educational certificate, and annually thereafter, a director of an association of a residential condominium must submit to the secretary of the association a certificate of having satisfactorily completed an educational curriculum administered by the division, or a division-approved condominium education provider, relating to any recent changes to this chapter and the related administrative rules during the past year. A director of an association of a residential condominium who fails to timely file the written certification and ~~or~~ educational certificate is suspended from service on the

board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification and ~~or~~ educational certificate for inspection by the members for 5 years after a director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification and ~~or~~ educational certificate on file does not affect the validity of any board action.

c. Any challenge to the election process must be commenced within 60 days after the election results are announced.

5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed meeting of unit owners and is subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law. Notice of meetings of the board of administration; unit owner meetings, except unit owner meetings called to recall board

members under paragraph (l); and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass e-mails sent to members on behalf of the association in the course of giving electronic notices.

7. Unit owners have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

8. A unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section

shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (l) and rules adopted by the division.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association or nonresidential condominium association.

Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(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 planned ~~deferred~~ maintenance. These accounts must include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of planned ~~deferred~~ maintenance expense or replacement cost, and any other item that has a planned ~~deferred~~ maintenance expense or replacement cost that exceeds $10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or planned ~~deferred~~ maintenance expense of the reserve item. In a budget adopted by

an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (g) for which the association is responsible pursuant to the declaration of condominium, and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable or with an estimated remaining useful life of greater than 25 years, an association is not required to reserve replacement costs for such items, but an association must reserve the amount of planned ~~deferred~~ maintenance expense, if any, which is recommended by the structural integrity reserve study for such items. The association may adjust replacement reserve assessments annually to take into account an inflation adjustment and any changes in estimates or extension of the useful life of a reserve item caused by planned ~~deferred~~ maintenance. The members of a unit-owner-controlled association may determine, by a majority vote of the total voting interests of the association, to provide no reserves or less reserves than required by this subsection. For a budget adopted on or after December 31, 2024, the members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph

(g), except that members of an association operating a multicondominium may determine to provide no reserves or less reserves than required by this subsection if an alternative funding method has been approved by the division. Additionally, members of an association may determine to provide no reserves or less reserves than required by this subsection if the condominium building or units are unsafe and uninhabitable due to substantial damage or loss as determined by the local enforcement agency, as defined in s. 553.71, and it is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building or units safe and habitable, but an association may not opt for such a waiver of reserve requirements after the building or units have been declared safe for occupancy by the local enforcement agency.

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 of all the total voting interests 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. For a budget adopted on or after December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, for any other purpose other than the replacement or planned ~~deferred~~ maintenance costs of the components listed in paragraph (g).

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. A residential condominium 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, as determined by the Florida Building Code, 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. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. Any other item that has a <u>planned</u> ~~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.-g., as determined by the visual

inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the condominium property. 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 or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the condominium property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of the condominium property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of condominium property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a planned ~~deferred~~

maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. The structural integrity reserve study may recommend a temporary pause in reserve funding or reduced reserve funding if the condominium building or units are unsafe and uninhabitable due to substantial damage or loss as determined by the local enforcement agency, as defined in s. 553.71, and it is in the best interests of the association to use revenues and existing reserve funds to perform necessary repairs to make the building safe and habitable, but the reserve funding schedule may not pause reserve funding after the building has been declared safe for occupancy by the local enforcement agency.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the condominium form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have

a turnover inspection report in compliance with s. 718.301(4)(p) and (q) for each building on the condominium property that is three stories or higher in height.

6. Associations 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 in accordance with s. 553.899 on or before December 31, 2026, 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.

7. 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.

8. If the officers or directors of an association willfully and knowingly fail 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).

9. Within 45 days after receiving the structural integrity

reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

(i) *Assessments.*—

1. The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in

which the claim of lien was filed.

2.a. In lieu of a special assessment to fund needed repairs, maintenance, or replacement of a building component recommended by a milestone inspection required under s. 553.899 or a similar local inspection requirement or a structural integrity reserve study, or unanticipated repairs, the board of a unit-owner-controlled association may approve contingent special assessments against each unit to secure a line of credit for the association to provide available funding to pay for such repairs, maintenance, or replacement. The approved line of credit must be made available to the board for the funding of the needed repairs, maintenance, or replacement. The association must record a declaration of special assessments evidencing the levy of such special assessments in the public records.

b. Funding from the line of credit must be immediately available for access by the board to fund required repairs, maintenance, or replacement expenses without further approval by the members of the association. At the option of a unit owner, the special assessment may be paid in full at the time it becomes due or the payment may be amortized over a term of years as provided for by the line of credit. However, a unit owner may pay the remaining balance of the special assessment at any time during the amortization period.

c. For a budget adopted on or before December 31, 2029, an association may secure a line of credit and assess a contingent

special assessment as provided in this subparagraph to meet the reserve funding schedule recommended by the structural integrity reserve study.

d. Except as authorized by sub-subparagraph c., a line of credit and contingent special assessment in this paragraph may not be used as an alternative to the association's reserve funding requirements in paragraph (f).

(q) *Director or officer offenses.*—

1. A director or an officer charged by information or indictment with any of the following crimes must be removed from office:

a. Forgery, as provided in s. 831.01, of a ballot envelope or voting certificate used in a condominium association election.

b. Theft, as provided in s. 812.014, or embezzlement involving the association's funds or property.

c. Destruction of, or the refusal to allow inspection or copying of, an official record of a condominium association which is accessible to unit owners within the time periods required by general law, in furtherance of any crime. Such act constitutes tampering with physical evidence as provided in s. 918.13.

d. Obstruction of justice under chapter 843.

2. The board shall fill the vacancy in accordance with paragraph (2)(d) ~~a felony theft or embezzlement offense~~

~~involving the association's funds or property must be removed from office, creating a vacancy in the office to be filled according to law~~ until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. While such director or officer has such criminal charge pending, he or she may not be appointed or elected to a position as a director or officer of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the director or officer shall be reinstated for the remainder of his or her term of office, if any.

(r) *Fraudulent voting activities relating to association elections; penalties.*—

1. A person who engages in the following acts of fraudulent voting activity relating to association elections commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.

b. Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.

c. Preventing a member from voting or preventing a member from voting as he or she intended by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.

d. Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when the member is voting.

e. Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This sub-subparagraph does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.

f. Using or threatening to use, directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a particular ballot measure.

2. Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

b. Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

c. Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment. This sub-subparagraph does not apply to a licensed attorney giving legal advice to a client.

Section 9. Subsection (5) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane ~~shutters and~~ protection; display of religious decorations.—

(5) To protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, this subsection applies to all residential and mixed-use condominiums in the state, regardless of when the condominium is created pursuant to the declaration of condominium. Each board of administration of a residential condominium or mixed-use condominium must ~~shall~~ adopt hurricane protection ~~shutter~~ specifications for each building within each condominium operated by the association which may ~~shall~~ include color, style, and other factors deemed relevant by the board.

All specifications adopted by the board must comply with the applicable building code. The installation, maintenance, repair, replacement, and operation of hurricane protection in accordance with this subsection is not considered a material alteration or substantial addition to the common elements or association property within the meaning of this section.

(a) The board may, subject to s. 718.3026 and the approval of a majority of voting interests of the residential condominium or mixed-use condominium, install or require that unit owners install hurricane ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane~~ protection that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable building code. A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county in which the condominium is located. The certificate must include the recording data identifying the declaration of condominium and must be executed in the form required for the execution of a deed. Once the certificate is recorded, the board must mail or hand deliver a copy of the recorded certificate to the unit owners at the owners' addresses, as reflected in the records of the association. The board may provide to unit owners who previously consented to receive notice by electronic

transmission a copy of the recorded certificate by electronic transmission. The failure to record the certificate or send a copy of the recorded certificate to the unit owners does not affect the validity or enforceability of the vote of the unit owners. ~~However,~~ A vote of the unit owners under this paragraph is not required if the installation, maintenance, repair, and replacement of the hurricane ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane~~ protection, or any exterior windows, doors, or other apertures protected by the hurricane protection, is ~~are~~ the responsibility of the association pursuant to the declaration of condominium as originally recorded or as amended, or if the unit owners are required to install hurricane protection pursuant to the declaration of condominium as originally recorded or as amended. If hurricane protection ~~or laminated glass or window film architecturally designed to function as hurricane protection~~ that complies with or exceeds the current applicable building code has been previously installed, the board may not install the same type of ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection or require that unit owners install the same type of hurricane protection unless the installed hurricane protection has reached the end of its useful life or unless it is necessary to prevent damage to the common elements or to a unit ~~except upon approval by a majority vote of the voting~~

~~interests~~.

~~(b) The association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection authorized by this subsection if such property is the responsibility of the association pursuant to the declaration of condominium. If the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.~~

(b) ~~(c)~~ The board may operate ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection ~~installed pursuant to this subsection~~ without permission of the unit owners only if such operation is necessary to preserve and protect the condominium property or ~~and~~ association property. ~~The installation, replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection in accordance with the procedures set forth in this paragraph are not a material alteration to the common elements or association property within the meaning of this section.~~

(c) ~~(d)~~ Notwithstanding any other provision in the

residential condominium or mixed-use condominium documents, if approval is required by the documents, a board may not refuse to approve the installation or replacement of ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection by a unit owner which conforms ~~conforming~~ to the specifications adopted by the board. However, a board may require the unit owner to adhere to an existing unified building scheme regarding the external appearance of the condominium.

(d) A unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, if its removal is necessary for the maintenance, repair, or replacement of other condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association. If such removal or reinstallation is completed by the association, the costs incurred by the association may not be charged to the unit owner. If such removal or reinstallation is completed by the unit owner, the association must reimburse the unit owner for the cost of the removal or reinstallation or the association must apply a credit toward future assessments in the amount of the unit owner's cost to remove or reinstall the hurricane protection.

(e) If the removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, is the responsibility of the unit owner and the association completes such removal or reinstallation and then charges the unit owner for such removal or reinstallation, such charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

Section 10. Paragraph (e) of subsection (1) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.—

(1)

(e)1. Except as provided in s. 718.113(5)(d), ~~The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(5) constitutes a common expense and shall be collected as provided in this section if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. However,~~ if the installation of ~~maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection is ~~are~~ the responsibility of the unit

owners pursuant to the declaration of condominium or a vote of the unit owners under s. 718.113(5), the cost of the installation of ~~the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection by the association is not a common expense and must ~~shall~~ be charged individually to the unit owners based on the cost of installation of ~~the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection appurtenant to the unit. The costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

2. Notwithstanding s. 718.116(9), and regardless of whether ~~or not~~ the declaration requires the association or unit owners to install, maintain, repair, or replace ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection, the ~~a unit~~ owner of a unit in which ~~who has previously installed hurricane shutters in accordance with s. 718.113(5) that comply with the current applicable building code shall receive a credit when the shutters are installed; a unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a unit owner who has installed other types of~~

~~code-compliant~~ hurricane protection that complies ~~comply~~ with the current applicable building code has been installed is excused from any assessment levied by the association or shall receive a credit if ~~when~~ the same type of ~~other code-compliant~~ hurricane protection is installed by the association~~, and the credit shall be equal to the pro rata portion of the assessed installation cost assigned to each unit~~. A credit is applicable if the installation of hurricane protection is for all other units that do not have hurricane protection and the cost of such installation is funded by the association's budget, including the use of reserve funds. The credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection. However, such unit owner remains responsible for the pro rata share of expenses for ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection installed on common elements and association property by the board pursuant to s. 718.113(5) and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection. Expenses for the installation, replacement, operation, repair, or maintenance of hurricane protection on common elements and association property are common expenses.

Section 11. Subsection (10) of section 718.116, Florida

Statutes, is amended to read:

718.116 Assessments; liability; lien and priority; interest; collection.—

(10) The specific purpose or purposes of any special assessment, including any contingent special assessment levied in conjunction with the purchase of an insurance policy authorized by s. 718.111(11), approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner and recorded in the public records. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.

Section 12. Paragraph (a) of subsection (4) of section 718.121, Florida Statutes, is amended to read:

718.121 Liens.—

(4)(a) If an association sends out an invoice for assessments or a unit's statement of the account described in s. 718.111(12)(a)11.c. ~~s. 718.111(12)(a)11.b.~~, the invoice for assessments or the unit's statement of account must be delivered to the unit owner by first-class United States mail or by electronic transmission to the unit owner's e-mail address

maintained in the association's official records.

Section 13. Section 718.1224, Florida Statutes, is amended to read:

718.1224 Prohibition against SLAPP suits; other prohibited actions.—

(1) It is the intent of the Legislature to protect the right of condominium unit owners to exercise their rights to instruct their representatives and petition for redress of grievances before their condominium association and the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that strategic lawsuits against public participation, or "SLAPP suits," as they are typically referred to, have occurred when association members are sued by condominium associations, individuals, business entities, or governmental entities arising out of a condominium unit owner's appearance and presentation before the board of the condominium association or a governmental entity on matters related to the condominium association. However, it is the public policy of this state that condominium associations, governmental entities, business organizations, and individuals not engage in SLAPP suits, because such actions are inconsistent with the right of condominium unit owners to participate in their condominium association and in the state's institutions of government.

Therefore, the Legislature finds and declares that prohibiting such lawsuits by condominium associations, governmental entities, business entities, and individuals against condominium unit owners who address matters concerning their condominium association will preserve this fundamental state policy, preserve the constitutional rights of condominium unit owners, ~~and~~ ensure the continuation of representative government in this state, and ensure unit owner participation in condominium associations. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts. As used in this subsection, the term "governmental entity" means the state, including the executive, legislative, and judicial branches of government; law enforcement agencies; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies of these branches that are subject to chapter 286.

(2) A condominium association, governmental entity, business organization, or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the condominium association or the various governmental entities of this state, as protected by the

First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(3) It is unlawful for a condominium association to fine, discriminatorily increase a unit owner's assessments, discriminatorily decrease services to a unit owner, or bring or threaten to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action, based on conduct described in this subsection. In order for the unit owner to raise the defense of retaliatory conduct, the unit owner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which a condominium association, an officer, a director, or an agent of an association may not retaliate include, but are not limited to, situations in which:

(a) The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;

(b) The unit owner has organized, encouraged, or participated in a unit owners' organization;

(c) The unit owner submitted information or filed a complaint alleging criminal violations or violations of this chapter or the rules of the division with the division, the

Office of the Condominium Ombudsman, a law enforcement agency, a state attorney, the Attorney General, or any other governmental agency;

(d) The unit owner has exercised his or her rights under this chapter;

(e) The unit owner has complained to the association or any of the association's representatives for the failure to comply with this chapter or chapter 617; or

(f) The unit owner has made public statements critical of the operation or management of the association.

(4) Evidence of retaliatory conduct may be raised by the unit owner as a defense in any action brought against him or her for possession.

(5)~~(3)~~ A condominium unit owner sued by a condominium association, governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A condominium unit owner may petition the court for an order dismissing the action or granting final judgment in favor of that condominium unit owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the condominium association's, governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The condominium association, governmental entity,

business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the condominium association's, governmental entity's, business organization's, or individual's response. The court may award the condominium unit owner sued by the condominium association, governmental entity, business organization, or individual actual damages arising from the condominium association's, governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing condominium unit owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(6)~~(4)~~ Condominium associations may not expend association funds in prosecuting a SLAPP suit against a condominium unit owner.

(7) Condominium associations may not expend association funds in support of a defamation, libel, slander, or tortious interference action against a unit owner or any other claim against a unit owner based on conduct described in subsection (3).

Section 14. 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 turnover inspection report included in the official records, under seal of an architect or engineer authorized to practice in this state or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, and consisting of a structural integrity reserve study attesting to required maintenance, condition, useful life, and replacement costs of the following applicable condominium property:

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. Plumbing.

5. Electrical systems.

6. Waterproofing and exterior painting.

7. Windows and exterior doors.

Section 15. Subsections (4) and (5) of section 718.3027, Florida Statutes, are amended to read:

718.3027 Conflicts of interest.—

(4) A director or an officer, or a relative of a director or an officer, who is a party to, or has an interest in, an activity that is a possible conflict of interest, as described in subsection (1), may attend the meeting at which the activity is considered by the board and is authorized to make a presentation to the board regarding the activity. After the presentation, the director or officer, and any ~~or the~~ relative of the director or officer, must leave the meeting during the discussion of, and the vote on, the activity. A director or an officer who is a party to, or has an interest in, the activity must recuse himself or herself from the vote. The attendance of a director or an officer with a possible conflict of interest at the meeting of the board is sufficient to constitute a quorum for the meeting and the vote in his or her absence on the

proposed activity.

(5) A contract entered into between a director or an officer, or a relative of a director or an officer, and the association, which is not a timeshare condominium association, that has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section or s. 617.0832 ~~s. 718.111(12)(g)~~ is voidable and terminates upon the filing of a written notice terminating the contract with the board of directors which contains the consent of at least 20 percent of the voting interests of the association.

Section 16. Subsection (5) of section 718.303, Florida Statutes, is amended to read:

718.303 Obligations of owners and occupants; remedies.—

(5) An association may suspend the voting rights of a unit owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the association which is more than $1,000 and more than 90 days delinquent. Proof of such obligation must be provided to the unit owner or member 30 days before such suspension takes effect. Notice of such obligation must also be provided to the unit owner at least 90 days before an election or a vote of the members. A voting interest or consent right allocated to a unit owner or member which has been suspended by the association shall be subtracted from the total number of voting interests in the association, which shall be reduced by the number of suspended voting interests when

calculating the total percentage or number of all voting interests available to take or approve any action, and the suspended voting interests shall not be considered for any purpose, including, but not limited to, the percentage or number of voting interests necessary to constitute a quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests required to approve an action under this chapter or pursuant to the declaration, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the association. The notice and hearing requirements under subsection (3) do not apply to a suspension imposed under this subsection.

Section 17. Subsections (1) and (2) of section 718.501, Florida Statutes, are amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the

control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. ~~However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g).~~

(a)1. The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms.

2. The division may submit any official written report, worksheet, or other related paper, or a duly certified copy thereof, compiled, prepared, drafted, or otherwise made by and duly authenticated by a financial examiner or analyst to be admitted as competent evidence in any hearing in which the financial examiner or analyst is available for cross-examination and attests under oath that such documents were prepared as a result of an examination or inspection conducted pursuant to this chapter.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division

determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease

and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to pay any restitution determined by the division to be owed, plus any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division must bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

5. The division may apply to the circuit court for an

order of restitution whereby the defendant in an action brought under subparagraph 4. is ordered to make restitution of those sums shown by the division to have been obtained by the defendant in violation of this chapter. At the option of the court, such restitution is payable to the conservator or receiver appointed under subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter or related rule. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates this chapter, an adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before

initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed $5,000. The division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, upon the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to

informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county in which ~~where~~ the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as

required by this chapter, the division shall issue a subpoena requiring production of the requested records at the location in which ~~where~~ the records are kept pursuant to s. 718.112. Upon receipt of the records, the division must provide to the unit owner who was denied access to such records the produced official records without charge.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (r). The civil penalty shall be at least $500 but no more than $5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division may adopt rules to administer and enforce this chapter.

(g) The division shall establish procedures for providing notice to an association and the developer, bulk assignee, or bulk buyer during the period in which the developer, bulk assignee, or bulk buyer controls the association if the division is considering the issuance of a declaratory statement with

respect to the declaration of condominium or any related document governing such condominium community.

(h) The division shall furnish each association that pays the fees required by paragraph (2)(a) a copy of this chapter, as amended, and the rules adopted thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training and educational programs for condominium association board members and unit owners. The training may, in the division's discretion, include web-based electronic media and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner. The division shall provide to directors of the board of administration at no charge the educational curriculum required under s. 718.112(2)(d) and issue a certificate of satisfactory completion, including when the required educational curriculum is provided by a division-approved condominium education provider.

(k) The division shall maintain a toll-free telephone

number accessible to condominium unit owners.

(l) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in alternative dispute resolution proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements adopted by rule.

(m) If a complaint is made, the division must conduct its inquiry with due regard for the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct

its investigation and, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing under ss. 120.569 and 120.57. The division may adopt rules regarding the submission of a complaint against an association.

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair

its verity or availability in the department's investigation. The division shall refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or when the division has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.

(o) The division director or any officer or employee of the division and the condominium ombudsman or any employee of the Office of the Condominium Ombudsman may attend and observe any meeting of the board of administration or unit owner meeting, including any meeting of a subcommittee or special committee, which is open to members of the association for the purpose of performing the duties of the division or the Office of the Condominium Ombudsman under this chapter.

(p) ~~(o)~~ The division may:

1. Contract with agencies in this state or other jurisdictions to perform investigative functions; or

2. Accept grants-in-aid from any source.

(q) ~~(p)~~ The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, public offering statements, advertising standards, and rules and common administrative practices.

(r) ~~(q)~~ The division shall consider notice to a developer, bulk assignee, or bulk buyer to be complete when it is delivered to the address of the developer, bulk assignee, or bulk buyer

currently on file with the division.

(s) ~~(r)~~ In addition to its enforcement authority, the division may issue a notice to show cause, which must provide for a hearing, upon written request, in accordance with chapter 120.

(t) The division shall routinely conduct random audits of condominium associations to determine compliance with the website or application requirements for official records under s. 718.111(12)(g).

(u) ~~(s)~~ The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

(2)(a) Each condominium association that ~~which~~ operates

more than two units shall pay to the division an annual fee in the amount of $4 for each residential unit in condominiums operated by the association. The annual fee shall be filed together with the annual certification described in paragraph (c). If the fee is not paid by March 1, the association shall be assessed a penalty of 10 percent of the amount due, and the association will not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(b) All fees shall be deposited in the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund as provided by law.

(c) On the certification form provided by the division, the directors of the association shall certify that each director of the association has completed the written certification and educational certificate requirements in s. 718.112(2)(d)4.b.

Section 18. Subsection (1) of section 718.618, Florida Statutes, is amended to read:

718.618 Converter reserve accounts; warranties.—

(1) When existing improvements are converted to ownership as a residential condominium, the developer shall establish converter reserve accounts for capital expenditures and planned ~~deferred~~ maintenance, or give warranties as provided by subsection (6), or post a surety bond as provided by subsection

(7). The developer shall fund the converter reserve accounts in amounts calculated as follows:

(a)1. When the existing improvements include an air-conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air-conditioning reserve account. The amount of the reserve account shall be the product of the estimated current replacement cost of the system, as disclosed and substantiated pursuant to s. 718.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9, and the denominator of which shall be 10. When such air-conditioning system is within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 4.

2. The developer shall fund a plumbing reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the plumbing component, as disclosed and substantiated pursuant to s. 718.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36, and the denominator of which shall be 40.

3. The developer shall fund a roof reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the roofing component, as disclosed and substantiated pursuant to s. 718.616(3)(b), multiplied by a

fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed in the following table. The denominator of the fraction shall be determined based on the roof type, as follows:

Roof Type		Numerator	Denominator
a.	Built-up roof without insulation	4	5
b.	Built-up roof with insulation	4	5
c.	Cement tile roof	45	50
d.	Asphalt shingle roof	14	15
e.	Copper roof		
f.	Wood shingle roof	9	10
g.	All other types	18	20

(b) The age of any component or structure for which the developer is required to fund a reserve account shall be measured in years, rounded to the nearest whole year. The amount of converter reserves to be funded by the developer for each

structure or component shall be based on the age of the structure or component as disclosed in the inspection report. The architect or engineer shall determine the age of the component from the later of:

1. The date when the component or structure was replaced or substantially renewed, if the replacement or renewal of the component at least met the requirements of the then-applicable building code; or

2. The date when the installation or construction of the existing component or structure was completed.

(c) When the age of a component or structure is to be measured from the date of replacement or renewal, the developer shall provide the division with a certificate, under the seal of an architect or engineer authorized to practice in this state, verifying:

1. The date of the replacement or renewal; and

2. That the replacement or renewal at least met the requirements of the then-applicable building code.

(d) In addition to establishing the reserve accounts specified above, the developer shall establish those other reserve accounts required by s. 718.112(2)(f), and shall fund those accounts in accordance with the formula provided therein. The vote to waive or reduce the funding or reserves required by s. 718.112(2)(f) does not affect or negate the obligations arising under this section.

Section 19. Paragraphs (j) and (k) 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 planned ~~deferred~~ maintenance. These accounts must include, but not be limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of planned ~~deferred~~ maintenance expense or replacement cost, and for any other items for which the planned ~~deferred~~ maintenance expense or replacement cost exceeds $10,000. The amount to be reserved must be computed by means of a formula which is based upon

estimated remaining useful life and estimated replacement cost or planned ~~deferred~~ maintenance expense of the reserve item. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (k) for which the association is responsible pursuant to the declaration, and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable or with an estimated remaining useful life of greater than 25 years, an association is not required to reserve replacement costs for such items, but an association must reserve the amount of planned ~~deferred~~ maintenance expense, if any, which is recommended by the structural integrity reserve study for such items. The association may adjust replacement reserve assessments annually to take into account an inflation adjustment and any changes in estimates or extension of the useful life of a reserve item caused by planned ~~deferred~~ maintenance. The members of a unit-owner-controlled association may determine, by a majority vote of the total voting interests 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. For a budget adopted on or after December 31, 2024, a unit-owner-controlled association that must obtain a structural integrity reserve study 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 total voting interests 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. For a budget adopted on or after December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, for purposes other than the replacement or planned ~~deferred~~ maintenance costs of the components listed in paragraph (k).

(k) *Structural integrity reserve study.*—

1. A residential cooperative 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, as determined by the Florida Building Code, 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. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. Any other item that has a planned ~~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.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the cooperative property. 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 or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the cooperative property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of the cooperative property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or planned ~~deferred~~ maintenance expense of each item of cooperative property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a planned ~~deferred~~ maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but

the study may recommend a planned ~~deferred~~ maintenance expense amount for such item.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 719.301(4)(p) and (q) for each building on the cooperative property that is three stories or higher in height.

6. Associations 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.

7. 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.

8. If the officers or directors of an association willfully and knowingly fail 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(9).

9. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

Section 20. 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 turnover inspection report included in the official records, under seal of an architect or engineer authorized to practice in this state or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, consisting of a structural integrity reserve study attesting to required maintenance, condition, useful life, and replacement costs of the following applicable cooperative property:

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. Plumbing.

5. Electrical systems.

6. Waterproofing and exterior painting.

7. Windows and exterior doors.

Section 21. Subsection (1) of section 719.618, Florida Statutes, is amended to read:

719.618 Converter reserve accounts; warranties.—

(1) When existing improvements are converted to ownership as a residential cooperative, the developer shall establish reserve accounts for capital expenditures and planned ~~deferred~~ maintenance, or give warranties as provided by subsection (6), or post a surety bond as provided by subsection (7). The developer shall fund the reserve accounts in amounts calculated as follows:

(a)1. When the existing improvements include an air-conditioning system serving more than one unit or property which the association is responsible to repair, maintain, or replace, the developer shall fund an air-conditioning reserve account. The amount of the reserve account shall be the product of the estimated current replacement cost of the system, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the system in years or 9, and the denominator of which shall

be 10. When such air-conditioning system is within 1,000 yards of the seacoast, the numerator shall be the lesser of the age of the system in years or 3, and the denominator shall be 4.

2. The developer shall fund a plumbing reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the plumbing component, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the plumbing in years or 36, and the denominator of which shall be 40.

3. The developer shall fund a roof reserve account. The amount of the funding shall be the product of the estimated current replacement cost of the roofing component, as disclosed and substantiated pursuant to s. 719.616(3)(b), multiplied by a fraction, the numerator of which shall be the lesser of the age of the roof in years or the numerator listed in the following table. The denominator of the fraction shall be determined based on the roof type, as follows:

Roof Type		Numerator	Denominator
a.	Built-up roof without insulation	4	5
b.	Built-up roof with insulation	4	5

c.	Cement tile roof	45	50
d.	Asphalt shingle roof	14	15
e.	Copper roof		
f.	Wood shingle roof	9	10
g.	All other types	18	20

(b) The age of any component or structure for which the developer is required to fund a reserve account shall be measured in years from the later of:

1. The date when the component or structure was replaced or substantially renewed, if the replacement or renewal of the component at least met the requirements of the then-applicable building code; or

2. The date when the installation or construction of the existing component or structure was completed.

(c) When the age of a component or structure is to be measured from the date of replacement or renewal, the developer shall provide the division with a certificate, under the seal of an architect or engineer authorized to practice in this state, verifying:

1. The date of the replacement or renewal; and

2. That the replacement or renewal at least met the requirements of the then-applicable building code.

Section 22. The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation shall complete a review of the website or application requirements for official records under s. 718.111(12)(g), Florida Statutes, and make recommendations regarding any additional official records of a condominium association that should be included in the record maintenance requirement in the statute. The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees and appropriate substantive committees with jurisdiction over chapter 718, Florida Statutes, the findings of its review by February 1, 2025.

Section 23. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

REGULATORY REFORM & ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 1021 by Rep. Lopez, V. and others
Community Associations

AMENDMENT SUMMARY
February 1, 2024

Amendment 1 by Rep. Lopez, V. (strike-all):

- Clarifies that community association managers and firms may retain records for up to 20 days after their contract is terminated in order to complete an ending financial statements or reports.
- Provides that a community association manager or a community association management firm is required to disclose if they hold an interest **or receive compensation or anything of value from** a business entity that does business with the association or proposes to enter into a contract with the association.
- Provides that maintenance of official records includes a **good faith** obligation to recover records if reasonably possible in the event records are lost, destroyed, or otherwise unavailable.
- Provides that a condominium association may satisfy a request for access to records by making the records available for download on the association website or **through an application on a mobile device.**
- Removes the requirement that the checklist made in response to a records request be **accompanied by a sworn affidavit**.
- Provides a **first-degree misdemeanor** for knowingly or intentionally defacing or destroying required accounting records or knowingly and intentionally failing to create or maintain such records, with the intent of causing harm to the association or its members.
- Provides that officers and directors charged with a specified criminal violation are deemed removed from office and a vacancy declared.
- Requires that meetings of the board must be at least **once each quarter** instead of four times a year.
- Removes the requirement that a special assessment must be recorded in the public record.
- Changes the retention period for an officer or director's educational certificate to **7 years**, instead of 5 years.
- Revises educational curriculum to:
    - Require 4 hours of instruction for the initial education and renewal of the education certificate.
    - Require such instruction to include milestone inspections, structural integrity reserve studies, recordkeeping, financial literacy and transparency, levying fines, and notice and meeting requirements.
    - Require a director to annually complete **one hour** of continuing education regarding the recent changes in the past year.
- Clarifies that a board may temporarily stop contributing to the reserves if there is a determination that the building is uninhabitable due to a natural emergency and requires reserve contributions to immediately resume when the building is determined to be habitable.
- Removes provisions related to allowing the association to use a line of credit for reserves.
- Clarifies jurisdiction of the Division after turnover occurs to include investigation of complaints alleging violations of the Condominium Act and other relevant rules or orders.
- Provides that the Secretary, instead of the Governor, must appoint the ombudsman and that the ombudsman does not have to be an attorney.
- Removes the usage of "planned" maintenance throughout the bill, and changes it back to current law: "deferred" maintenance.

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)

Remove everything after the enacting clause and insert:

Section 1. Subsection (3) is added to section 468.4334, Florida Statutes, to read:

468.4334 Professional practice standards; liability.—

(3) A community association manager or a community association management firm shall return all community association official records within its possession to the community association within 20 business days after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request for return of the official records, whichever

occurs first. The notice of termination must be sent by certified mail, return receipt requested, or in the manner required under the management contract. Such community association manager or community association management firm may retain, for up to 20 business days, those records necessary to complete an ending financial statement or report. Failure of association to provide access or retention of accounting records to prepare the statement or report shall relieve such community association manager or community association management firm of any further responsibility or liability for preparation of the statement or report. Failure of a community association manager or a community association management firm to timely return all of the official records within its possession to the community association creates a rebuttable presumption that the community association manager or community association management firm willfully failed to comply with this subsection. A community association manager or a community association management firm that fails to timely return community association records is subject to suspension of its license under s. 468.436, and a civil penalty of $1,000 per day for up to business 10 days, assessed beginning on the 21st business day after termination of a contractual agreement to provide community association management services to the community association or receipt of a written request from the association for return of the records, whichever occurs first.

Section 2. Section 468.4335, Florida Statutes, is created to read:

468.4335 Conflicts of interest.—

(1) A community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, or a relative of such persons, must disclose to the board of a community association any activity that may reasonably be construed to be a conflict of interest. A rebuttable presumption of a conflict of interest exists if any of the following occurs without prior notice:

(a) A community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, or a relative of such persons, enters into a contract for goods or services with the association.

(b) A community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, or the relative of such persons, holds an interest in or receives compensation or anything of value from a corporation, limited liability corporation, partnership, limited liability partnership, or other business entity that conducts business with the association or proposes to enter into a contract or other transaction with the association.

(2) If the association receives and considers a bid to provide a good or service, other than community association management services, from a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, or a relative of such persons, the association must also solicit and consider at least three bids from other third-party providers of such good or service.

(3) If a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, or a relative of such persons, proposes to engage in an activity that is a conflict of interest as described in subsection (1), the proposed activity must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the meeting agenda of the next board of administration meeting. The disclosures of a possible conflict of interest must be entered into the written minutes of the meeting. Approval of the contract or other transaction requires an affirmative vote of two-thirds of all other directors present. At the next regular or special meeting of the members, the existence of the contract or other transaction must be disclosed to the members.

(4) If the board finds that a community association manager or a community association management firm, including

directors, officers, persons with a financial interest in a community association management firm, and the relatives of such persons, has violated this section, the association may cancel its community association management contract with the community association manager or the community association management firm. If the contract is canceled, the association is liable only for the reasonable value of the management services provided up to the time of cancellation and is not liable for any termination fees, liquidated damages, or other form of penalty for such cancellation.

(5) If an association enters into a contract with a community association manager or a community association management firm, including directors, officers, persons with a financial interest in a community association management firm, or a relative of such persons, which is a party to or has an interest in an activity that is a possible conflict of interest as described in subsection (1) and such activity has not been properly disclosed as a conflict of interest or potential conflict of interest as required by this section, the contract is voidable and terminates upon the association filing a written notice terminating the contract with its board of directors which contains the consent of at least 20 percent of the voting interests of the association.

(6) As used in this section, the term "relative" means a relative within the third degree of consanguinity by blood or marriage.

Section 3. Paragraph (b) of subsection (2) of section 468.436, Florida Statutes, is amended, and subsection (4) of that section is reenacted, to read:

468.436 Disciplinary proceedings.—

(2) The following acts constitute grounds for which the disciplinary actions in subsection (4) may be taken:

(b)1. Violation of ~~any provision of~~ this part.

2. Violation of any lawful order or rule rendered or adopted by the department or the council.

3. Being convicted of or pleading nolo contendere to a felony in any court in the United States.

4. Obtaining a license or certification or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.

5. Committing acts of gross misconduct or gross negligence in connection with the profession.

6. Contracting, on behalf of an association, with any entity in which the licensee has a financial interest that is not disclosed.

7. Failing to disclose any conflict of interest as required by s. 468.4335.

8.~~7.~~ Violating ~~any provision of~~ chapter 718, chapter 719, or chapter 720 during the course of performing community association management services pursuant to a contract with a community association as defined in s. 468.431(1).

(4) When the department finds any community association manager or firm guilty of any of the grounds set forth in subsection (2), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the community association manager on probation for a period of time and subject to such conditions as the department specifies.

(f) Restriction of the authorized scope of practice by the community association manager.

Section 4. Subsections (19) through (32) of section 718.103, Florida Statutes, are renumbered as subsections (20) through (33), respectively, subsection (1) is amended, and a new subsection (19) is added to that section, to read:

718.103 Definitions.—As used in this chapter, the term:

(1) "Alternative funding method" means a method approved by the division for funding the capital expenditures and

deferred maintenance obligations for a multicondominium association operating at least 25 condominiums which may reasonably be expected to fully satisfy the association's reserve funding obligations by the allocation of funds in the annual operating budget.

(19) "Hurricane protection" means hurricane shutters, impact glass, code-compliant windows or doors, and other code-compliant hurricane protection products used to preserve and protect the condominium property or association property.

Section 5. Paragraph (p) is added to subsection (4) of section 718.104, Florida Statutes, to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(p) For both residential condominiums and mixed-use condominiums, a statement that specifies whether the unit owner or the association is responsible for the installation, maintenance, repair, or replacement of hurricane protection that is for the preservation and protection of the condominium property and association property.

Section 6. Paragraph (a) of subsection (1) and subsections (12), (13), and (15) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(a) The operation of the condominium shall be by the association, which must be a Florida corporation for profit or a Florida corporation not for profit. However, any association which was in existence on January 1, 1977, need not be incorporated. The owners of units shall be shareholders or members of the association. The officers and directors of the association have a fiduciary relationship to the unit owners. It is the intent of the Legislature that nothing in this paragraph shall be construed as providing for or removing a requirement of a fiduciary relationship between any manager employed by the association and the unit owners. An officer, director, or manager may not solicit, offer to accept, or accept any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association. Any such officer, director, or manager who knowingly so solicits, offers to accept, or accepts any thing or service of value or kickback commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be deemed removed from office and a vacancy declared, and is subject to a civil penalty pursuant to s. 718.501(1)(d) ~~and, if applicable, a criminal penalty as provided in paragraph (d)~~. However, this

paragraph does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs. An association may operate more than one condominium.

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association shall maintain each of the following items, if applicable, which constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other items provided by the developer under s. 718.301(4).

2. A photocopy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photocopy of the recorded bylaws of the association and each amendment to the bylaws.

4. A certified copy of the articles of incorporation of the association, or other documents creating the association, and each amendment thereto.

5. A copy of the current rules of the association.

6. A book or books that contain the minutes of all meetings of the association, the board of administration, and the unit owners.

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain

the e-mail addresses and facsimile numbers of unit owners consenting to receive notice by electronic transmission. ~~The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided~~ In accordance with sub-subparagraph (c)5.e., the e-mail addresses and facsimile numbers are only accessible to unit owners if consent to receive notice by electronic transmission is provided ~~(c)3.e~~. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

8. All current insurance policies of the association and condominiums operated by the association.

9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the association.

11. Accounting records for the association and separate accounting records for each condominium that the association operates. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is

personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:

a. Accurate, itemized, and detailed records of all receipts and expenditures.

b. All invoices, transaction receipts, or deposit slips, that substantiate any receipt or expenditure of funds by the association.

c.~~b.~~ A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.

d.~~c.~~ All audits, reviews, accounting statements, structural integrity reserve studies, and financial reports of the association or condominium. Structural integrity reserve studies must be maintained for at least 15 years after the study is completed.

e.~~d.~~ All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for at least 1 year after receipt of the bid.

12. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which must be maintained for 1 year from the date of the

election, vote, or meeting to which the document relates, notwithstanding paragraph (b).

13. All rental records if the association is acting as agent for the rental of condominium units.

14. A copy of the current question and answer sheet as described in s. 718.504.

15. A copy of the inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property. Such record must be maintained by the association for 15 years after receipt of the report.

16. Bids for materials, equipment, or services.

17. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

18. A copy of all building permits issued for ongoing or planned construction.

19.~~18.~~ All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless

otherwise provided by general law. The official records must be maintained in an organized manner that facilitates inspection of the records by a unit owner. In the event that the records are lost, destroyed, or otherwise unavailable, the obligation to maintain official records includes a good faith obligation to obtain and recreate those records to the fullest extent possible. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph and paragraph (c) may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet as provided under paragraph (g) or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in compliance with this chapter unless the association has an affirmative duty not to disclose such information under this chapter.

(c)1.a. ~~(c)1.~~ The official records of the association are open to inspection by any association member and any person authorized by an association member as a representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member and of the person authorized by the association member as a representative of such member. A renter of a unit has a right to inspect and copy only the declaration of condominium, the association's bylaws and rules, and the inspection reports described in ss. 553.899 and 718.301(4)(p). The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or

indirectly, knowingly denied access to the records. If the requested records are posted on an association's website, or are available for download through an application on a mobile device, the association may fulfill its obligations by directing all persons authorized to request access to the website or the application.

b. In response to a written request to inspect records, the association must simultaneously provide to the requestor a checklist of all records made available for inspection and copying. The checklist must also identify any of the association's official records that were not made available to the requestor. An association must maintain a checklist provided under this sub-subparagraph for 7 years. An association delivering a checklist pursuant to this sub-subparagraph creates a rebuttable presumption that the association has complied with this paragraph.

2. A director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and shall be deemed removed from office and a vacancy declared. For purposes of this subparagraph, the term "repeatedly" means two or more violations within a 12-month period.

3.~~2.~~ Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or 775.083, is personally subject to a civil penalty pursuant to s. 718.501(1)(d), and shall be deemed removed from office and a vacancy declared.

4. A person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be deemed removed from office and a vacancy declared.

5.~~3.~~ The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 718.504 and year-end financial information required under this section, on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual

411 costs for preparing and furnishing these documents to those
412 requesting the documents. An association shall allow a member or
413 his or her authorized representative to use a portable device,
414 including a smartphone, tablet, portable scanner, or any other
415 technology capable of scanning or taking photographs, to make an
416 electronic copy of the official records in lieu of the
417 association's providing the member or his or her authorized
418 representative with a copy of such records. The association may
419 not charge a member or his or her authorized representative for
420 the use of a portable device. Notwithstanding this paragraph,
421 the following records are not accessible to unit owners:
422 a. Any record protected by the lawyer-client privilege as
423 described in s. 90.502 and any record protected by the work-
424 product privilege, including a record prepared by an association
425 attorney or prepared at the attorney's express direction, which
426 reflects a mental impression, conclusion, litigation strategy,
427 or legal theory of the attorney or the association, and which
428 was prepared exclusively for civil or criminal litigation or for
429 adversarial administrative proceedings, or which was prepared in
430 anticipation of such litigation or proceedings until the
431 conclusion of the litigation or proceedings.
432 b. Information obtained by an association in connection
433 with the approval of the lease, sale, or other transfer of a
434 unit.

c. Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this sub-subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit owners a directory containing the name, unit address, and all telephone numbers of each unit owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that

is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

f. Electronic security measures that are used by the association to safeguard data, including passwords.

g. The software and operating system used by the association which allow the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.

h. All affirmative acknowledgments made pursuant to s. 718.121(4)(c).

(d) The association shall prepare a question and answer sheet as described in s. 718.504, and shall update it annually.

(e)1. The association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the condominium or the association other than information or documents required by this chapter to be made available or disclosed. The association or its authorized agent may charge a reasonable fee to the prospective purchaser, lienholder, or the current unit owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed $150 plus the reasonable cost of

484 photocopying and any attorney's fees incurred by the association
485 in connection with the response.
486 2. An association and its authorized agent are not liable
487 for providing such information in good faith pursuant to a
488 written request if the person providing the information includes
489 a written statement in substantially the following form: "The
490 responses herein are made in good faith and to the best of my
491 ability as to their accuracy."
492 (f) An outgoing board or committee member must relinquish
493 all official records and property of the association in his or
494 her possession or under his or her control to the incoming board
495 within 5 days after the election. The division shall impose a
496 civil penalty as set forth in s. 718.501(1)(d)6. against an
497 outgoing board or committee member who willfully and knowingly
498 fails to relinquish such records and property.
499 (g)1. By January 1, 2019, an association managing a
500 condominium with 150 or more units which does not contain
501 timeshare units shall post digital copies of the documents
502 specified in subparagraph 2. on its website or make such
503 documents available through an application that can be
504 downloaded on a mobile device.
505 a. The association's website or application must be:
506 (I) An independent website, application, or web portal
507 wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other

entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the

third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall deliver ~~mail~~ to each unit owner by United States mail or personal delivery at the mailing address, property address, e-mail address, or facsimile number provided to fulfill the association's notice requirements ~~at the address last furnished to the association by the unit owner, or hand deliver to each unit owner~~, a copy of the most recent financial report, and ~~or~~ a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and addressing the financial reporting requirements for multicondominium associations. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements must be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of $150,000 or more, but less than $300,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least $300,000, but less than $500,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of $500,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than $150,000 shall prepare a report of cash receipts and expenditures.

2. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and

reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare, without a meeting of or approval by the unit owners:

1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is required to prepare compiled financial statements; or

3. Audited financial statements if the association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. An association may not prepare a financial report pursuant to this paragraph for consecutive fiscal years~~,~~ ~~except that the approval may also be effective for the following fiscal year~~. If the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of the association's financial reports, from the date of incorporation of the association through the end of the second fiscal year after the fiscal year in which the certificate of a surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or an instrument that transfers title to a unit in the condominium which is not accompanied by a recorded assignment of developer rights in favor of the grantee of such unit is recorded, whichever occurs first. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer. Any audit or review prepared under this section shall be paid for by the developer if done before turnover of control of the association.

(e) A unit owner may provide written notice to the division of the association's failure to mail or hand deliver him or her a copy of the most recent financial report within 5 business days after he or she submitted a written request to the association for a copy of such report. If the division

determines that the association failed to mail or hand deliver a copy of the most recent financial report to the unit owner, the division shall provide written notice to the association that the association must mail or hand deliver a copy of the most recent financial report to the unit owner and the division within 5 business days after it receives such notice from the division. An association that fails to comply with the division's request may not waive the financial reporting requirement provided in paragraph (d) for the fiscal year in which the unit owner's request was made and the following fiscal year. A financial report received by the division pursuant to this paragraph shall be maintained, and the division shall provide a copy of such report to an association member upon his or her request.

(15) DEBIT CARDS.—

(a) An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expense.

(b) A person who uses ~~Use of~~ a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014, and shall be deemed removed from office and a vacancy declared. For the purposes of this paragraph, the term "lawful obligation of the

association" means an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget ~~may be prosecuted as credit card fraud pursuant to s. 817.61~~.

Section 7. Effective January 1, 2026, paragraph (g) of subsection (12) of section 718.111, Florida Statutes, as amended by this act, is amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(g)1. ~~By January 1, 2019,~~ An association managing a condominium with 25 ~~150~~ or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website or make such documents available through an application that can be downloaded on a mobile device.

a. The association's website or application must be:

(I) An independent website, application, or web portal wholly owned and operated by the association; or

(II) A website, application, or web portal operated by a third-party provider with whom the association owns, leases, rents, or otherwise obtains the right to operate a web page, subpage, web portal, collection of subpages or web portals, or an application which is dedicated to the association's activities and on which required notices, records, and documents may be posted or made available by the association.

b. The association's website or application must be accessible through the Internet and must contain a subpage, web portal, or other protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the association.

c. Upon a unit owner's written request, the association must provide the unit owner with a username and password and access to the protected sections of the association's website or application which contain any notices, records, or documents that must be electronically provided.

2. A current copy of the following documents must be posted in digital format on the association's website or application:

a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

b. The recorded bylaws of the association and each amendment to the bylaws.

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed $500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (13) and any monthly income or expense statement to be considered at a meeting.

h. The certification of each director required by s. 718.112(2)(d)4.b.

i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.

j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.4335, 468.436(2)(b)6., and 718.3027(3).

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

l. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice under s. 718.112(2)(c).

m. The inspection reports described in ss. 553.899 and 718.301(4)(p) and any other inspection report relating to a structural or life safety inspection of condominium property.

n. The association's most recent structural integrity reserve study, if applicable.

o. Copies of all building permits issued for ongoing or planned construction.

3. The association shall ensure that the information and records described in paragraph (c), which are not allowed to be accessible to unit owners, are not posted on the association's

website or application. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association's website or application, the association shall ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted under this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

4. The failure of the association to post information required under subparagraph 2. is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

Section 8. Paragraphs (c), (d), (f), (g), (i), and (q) of subsection (2) of section 718.112, Florida Statutes, are amended, and paragraph (r) is added to that subsection, 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:

(c) *Board of administration meetings.*—In a residential condominium association of more than 10 units, the board of administration shall meet once each quarter for the purpose of responding to inquiries from members and informing members on

the state of the condominium, including the status of any construction or repair projects, the status of the association's revenue and expenditures during the fiscal year, or other issues affecting the association. Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail. A unit owner may tape record or videotape the meetings. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose. An item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the

board members. Such emergency action must be noticed and ratified at the next regular board meeting. Written notice of a meeting at which a nonemergency special assessment or an amendment to rules regarding unit use will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association. ~~Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for such assessments.~~

2. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property at which ~~where~~ all notices of board meetings must be posted. If there is no condominium property at which ~~where~~ notices can be posted, notices shall be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the meeting. In lieu of or in addition to the physical posting of the notice on the condominium property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving

the condominium association. However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website at which ~~where~~ the notice is posted, to unit owners whose e-mail addresses are included in the association's official records.

3. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the purposes for

such assessments. If an agenda item relates to the approval of a contract for goods or services, a copy of the contract must be provided with the notice, made available for inspection and copying upon a written request from a unit owner, or made available on the association's website or through an application that can be downloaded on a mobile device.

4.~~2.~~ Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this section, unless those meetings are exempted from this section by the bylaws of the association.

5.~~3.~~ Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners does not apply to:

a. Meetings between the board or a committee and the association's attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice; or

b. Board meetings held for the purpose of discussing personnel matters.

(d) *Unit owner meetings.*—

1. An annual meeting of the unit owners must be held at the location provided in the association bylaws and, if the bylaws are silent as to the location, the meeting must be held within 45 miles of the condominium property. However, such distance requirement does not apply to an association governing a timeshare condominium.

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director's term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough

eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member's term limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent

in the payment of any assessment due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. For purposes of this paragraph, a person is delinquent if a payment is not made by the due date as specifically identified in the declaration of condominium, bylaws, or articles of incorporation. If a due date is not specifically identified in the declaration of condominium, bylaws, or articles of incorporation, the due date is the first day of the assessment period. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and be posted in a

conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property at which ~~where~~ all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner

and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website at which ~~where~~ the notice is posted, to unit owners whose e-mail addresses are included in the association's official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in

writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

4. The members of the board of a residential condominium shall be elected by written ballot or voting machine. Proxies may not be used in electing the board in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in this chapter. This subparagraph does not apply to an association governing a timeshare condominium.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in

subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting

the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. A director of a ~~Within 90 days after being elected or appointed to the~~ board of an association of a residential condominium~~, each newly elected or appointed director~~ shall:

(I) Certify in writing to the secretary of the association that he or she has read the association's declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members.

(II) Submit to the secretary of the association ~~In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit~~ a certificate of having satisfactorily completed the educational curriculum administered by the division or a division-approved condominium education provider. The educational curriculum must be 4 hours long and include instruction on milestone inspections, structural integrity reserve studies, recordkeeping, financial literacy and transparency, levying of fines, and notice and meeting

requirements ~~within 1 year before or 90 days after the date of election or appointment~~.

Each newly elected or appointed director must submit to the secretary of the association the written certification and educational certificate within 1 year before being elected or appointed or 90 days after the date of election or appointment. A director of an association of a residential condominium who was elected or appointed before July 1, 2024, must comply with the written certification and educational certificate requirements in this sub-subparagraph by June 30, 2025. The written certification and ~~or~~ educational certificate is valid for 7 years after the date of issuance and does not have to be resubmitted as long as the director serves on the board without interruption during the 7-year period. A director who is appointed by the developer may satisfy the educational certificate requirement in sub-sub-subparagraph (II) for any subsequent appointment to a board by a developer within 7 years after the date of issuance of the most recent educational certificate, including any interruption of service on a board or appointment to a board in another association within that 7-year period. One year after submission of the most recent written certification and educational certificate, and annually thereafter, a director of an association of a residential condominium must submit to the secretary of the association a

certificate of having satisfactorily completed one hour of continuing education administered by the division, or a division-approved condominium education provider, relating to any recent changes to this chapter and the related administrative rules during the past year. A director of an association of a residential condominium who fails to timely file the written certification and ~~or~~ educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director's written certification and ~~or~~ educational certificate for inspection by the members for 7 ~~5~~ years after a director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification and ~~or~~ educational certificate on file does not affect the validity of any board action.

c. Any challenge to the election process must be commenced within 60 days after the election results are announced.

5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws, including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed meeting of unit owners and is subject to all requirements of this chapter or the applicable condominium documents relating to unit owner decisionmaking, except that

unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration or any law. Notice of meetings of the board of administration; unit owner meetings, except unit owner meetings called to recall board members under paragraph (l); and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that block receipt of mass e-mails sent to members on behalf of the association in the course of giving electronic notices.

7. Unit owners have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the association may adopt reasonable rules governing the frequency, duration, and manner of unit owner participation.

8. A unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.

9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining

directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (l) and rules adopted by the division.

10. This chapter does not limit the use of general or limited proxies, require the use of general or limited proxies, or require the use of a written ballot or voting machine for any agenda item or election at any meeting of a timeshare condominium association or nonresidential condominium association.

Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may

provide for elections to be conducted by limited or general proxy.

(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. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the reserve item. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (g) for which the association is responsible pursuant to the declaration of condominium, and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable or with an estimated remaining useful life of greater than 25 years, an association is not required to reserve replacement costs for such items, but an association must reserve the amount of deferred maintenance expense, if any, which is recommended by the structural integrity reserve study for such items. The association may adjust replacement reserve assessments annually to take into account an inflation adjustment and 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 of the total voting interests of the association, to provide no reserves or less reserves than required by this subsection. For a budget adopted on or after December 31, 2024, the members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not determine to provide no reserves or less reserves than required by this subsection for items listed in paragraph (g), except that members of an association operating a multicondominium may determine to provide no reserves or less reserves than required by this subsection if an alternative funding method has been approved by the division. If the local building official, as defined in s. 468.603(2), determines that the entire condominium building is uninhabitable due to a natural emergency, defined as s.252.34(8), the board, upon the approval of a majority of its members, may pause its contribution to its reserves or reduce reserve funding until the local building official determines the condominium building is habitable. Any reserve account funds held by the association may be expended to make the condominium building and structures habitable, pursuant to the board determination. Immediately, upon the determination that the building is habitable, the association must resume contributing funds to its reserves.

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 of all the total voting interests 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. For a budget adopted on or after December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, for any other purpose other than the replacement or deferred maintenance costs of the components listed in paragraph (g).

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. A residential condominium 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, as determined by the Florida Building Code, 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. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. 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.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the condominium property. 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 or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the condominium property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of each item of the condominium property being visually inspected, and provide a reserve funding schedule with a recommended annual

reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each item of condominium property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a deferred maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a deferred maintenance expense amount for such item.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the condominium form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 718.301(4)(p) and (q) for each building on the condominium property that is three stories or higher in height.

6. Associations 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 in accordance with s. 553.899 on or before December 31, 2026, 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.

7. 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.

8. If the officers or directors of an association willfully and knowingly fail 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).

9. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying

upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

(i) *Assessments.*—

1. The manner of collecting from the unit owners their shares of the common expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts due for the remainder of the budget year in which the claim of lien was filed.

(q) *Director or officer offenses.*—

1. A director or an officer charged by information or indictment with any of the following crimes must be removed from office:

a. Forgery, as provided in s. 831.01, of a ballot envelope or voting certificate used in a condominium association election.

b. Theft, as provided in s. 812.014, or embezzlement involving the association's funds or property.

c. Destruction of, or the refusal to allow inspection or copying of, an official record of a condominium association which is accessible to unit owners within the time periods required by general law, in furtherance of any crime. Such act constitutes tampering with physical evidence as provided in s. 918.13.

d. Obstruction of justice under chapter 843.

2. The board shall fill the vacancy in accordance with paragraph (2)(d) ~~a felony theft or embezzlement offense involving the association's funds or property must be removed from office, creating a vacancy in the office to be filled according to law~~ until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. While such director or officer has such criminal charge

pending, he or she may not be appointed or elected to a position as a director or officer of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the director or officer shall be reinstated for the remainder of his or her term of office, if any.

(r) *Fraudulent voting activities relating to association elections; penalties.*—

1. A person who engages in the following acts of fraudulent voting activity relating to association elections commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.

b. Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.

c. Preventing a member from voting or preventing a member from voting as he or she intended by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.

d. Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when the member is voting.

e. Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This sub-subparagraph does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.

f. Using or threatening to use, directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a particular ballot measure.

2. Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

a. Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections.

b. Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections.

c. Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment. This sub-subparagraph does not apply to a licensed attorney giving legal advice to a client.

Section 9. Subsection (5) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane ~~shutters and~~ protection; display of religious decorations.—

(5) To protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protections installed by condominium associations and unit owners, this subsection applies to all residential and mixed-use condominiums in the state, regardless of when the condominium is created pursuant to the declaration of condominium. Each board of administration of a residential condominium or mixed-use condominium must ~~shall~~ adopt hurricane protection ~~shutter~~ specifications for each building within each condominium operated by the association which may ~~shall~~ include color, style, and other factors deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code. The installation, maintenance, repair, replacement, and operation of hurricane protection in accordance

with this subsection is not considered a material alteration or substantial addition to the common elements or association property within the meaning of this section.

(a) The board may, subject to s. 718.3026 and the approval of a majority of voting interests of the residential condominium or mixed-use condominium, install or require that unit owners install hurricane ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane~~ protection that complies ~~comply~~ with or exceeds ~~exceed~~ the applicable building code. A vote of the unit owners to require the installation of hurricane protection must be set forth in a certificate attesting to such vote and include the date that the hurricane protection must be installed. The board must record the certificate in the public records of the county in which the condominium is located. Once the certificate is recorded, the board must mail or hand deliver a copy of the recorded certificate to the unit owners at the owners' addresses, as reflected in the records of the association. The board may provide to unit owners who previously consented to receive notice by electronic transmission a copy of the recorded certificate by electronic transmission. The failure to record the certificate or send a copy of the recorded certificate to the unit owners does not affect the validity or enforceability of the vote of the unit owners. ~~However,~~ A vote of the unit owners under this paragraph is not required if the installation,

maintenance, repair, and replacement of the hurricane ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane~~ protection, or any exterior windows, doors, or other apertures protected by the hurricane protection, is ~~are~~ the responsibility of the association pursuant to the declaration of condominium as originally recorded or as amended, or if the unit owners are required to install hurricane protection pursuant to the declaration of condominium as originally recorded or as amended. If hurricane protection ~~or laminated glass or window film architecturally designed to function as hurricane protection~~ that complies with or exceeds the current applicable building code has been previously installed, the board may not install the same type of ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection or require that unit owners install the same type of hurricane protection unless the installed hurricane protection has reached the end of its useful life or unless it is necessary to prevent damage to the common elements or to a unit ~~except upon approval by a majority vote of the voting interests~~.

~~(b) The association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection authorized by this subsection if such property is the responsibility of the association pursuant~~

~~to the declaration of condominium. If the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection are the responsibility of the unit owners pursuant to the declaration of condominium, the maintenance, repair, and replacement of such items are the responsibility of the unit owner.~~

(b) ~~(c)~~ The board may operate ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection ~~installed pursuant to this subsection~~ without permission of the unit owners only if such operation is necessary to preserve and protect the condominium property or ~~and~~ association property. ~~The installation, replacement, operation, repair, and maintenance of such shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection in accordance with the procedures set forth in this paragraph are not a material alteration to the common elements or association property within the meaning of this section.~~

(c) ~~(d)~~ Notwithstanding any other provision in the residential condominium or mixed-use condominium documents, if approval is required by the documents, a board may not refuse to approve the installation or replacement of ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection by a unit owner which conforms ~~conforming~~ to the specifications adopted by the board.

However, a board may require the unit owner to adhere to an existing unified building scheme regarding the external appearance of the condominium.

(d) A unit owner is not responsible for the cost of any removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, if its removal is necessary for the maintenance, repair, or replacement of other condominium property or association property for which the association is responsible. The board shall determine if the removal or reinstallation of hurricane protection must be completed by the unit owner or the association. If such removal or reinstallation is completed by the association, the costs incurred by the association may not be charged to the unit owner. If such removal or reinstallation is completed by the unit owner, the association must reimburse the unit owner for the cost of the removal or reinstallation or the association must apply a credit toward future assessments in the amount of the unit owner's cost to remove or reinstall the hurricane protection.

(e) If the removal or reinstallation of hurricane protection, including exterior windows, doors, or other apertures, is the responsibility of the unit owner and the association completes such removal or reinstallation and then charges the unit owner for such removal or reinstallation, such

charges are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

Section 10. Paragraph (e) of subsection (1) of section 718.115, Florida Statutes, is amended to read:

718.115 Common expenses and common surplus.—

(1)

(e)1. Except as provided in s. 718.113(5)(d), ~~The expense of installation, replacement, operation, repair, and maintenance of hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection by the board pursuant to s. 718.113(5) constitutes a common expense and shall be collected as provided in this section if the association is responsible for the maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant hurricane protection pursuant to the declaration of condominium. However,~~ if the installation of ~~maintenance, repair, and replacement of the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection is ~~are~~ the responsibility of the unit owners pursuant to the declaration of condominium or a vote of the unit owners under s. 718.113(5), the cost of the installation of ~~the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection by the association is not a common expense

and must ~~shall~~ be charged individually to the unit owners based on the cost of installation of ~~the hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection appurtenant to the unit. The costs of installation of hurricane protection are enforceable as an assessment and may be collected in the manner provided under s. 718.116.

2. Notwithstanding s. 718.116(9), and regardless of whether ~~or not~~ the declaration requires the association or unit owners to install, maintain, repair, or replace ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection, the ~~a unit~~ owner of a unit in which ~~who has previously installed hurricane shutters in accordance with s. 718.113(5) that comply with the current applicable building code shall receive a credit when the shutters are installed; a unit owner who has previously installed impact glass or code-compliant windows or doors that comply with the current applicable building code shall receive a credit when the impact glass or code-compliant windows or doors are installed; and a unit owner who has installed other types of code-compliant~~ hurricane protection that complies ~~comply~~ with the current applicable building code has been installed is excused from any assessment levied by the association or shall receive a credit if ~~when~~ the same type of ~~other code-compliant~~ hurricane protection is installed by the association~~, and the~~

~~credit shall be equal to the pro rata portion of the assessed installation cost assigned to each unit~~. A credit is applicable if the installation of hurricane protection is for all other units that do not have hurricane protection and the cost of such installation is funded by the association's budget, including the use of reserve funds. The credit must be equal to the amount that the unit owner would have been assessed to install the hurricane protection. However, such unit owner remains responsible for the pro rata share of expenses for ~~hurricane shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection installed on common elements and association property by the board pursuant to s. 718.113(5) and remains responsible for a pro rata share of the expense of the replacement, operation, repair, and maintenance of such ~~shutters, impact glass, code-compliant windows or doors, or other types of code-compliant~~ hurricane protection. Expenses for the installation, replacement, operation, repair, or maintenance of hurricane protection on common elements and association property are common expenses.

Section 11. Subsection (10) of section 718.116, Florida Statutes, is amended to read:

718.116 Assessments; liability; lien and priority; interest; collection.—

(10) The specific purpose or purposes of any special assessment, including any contingent special assessment levied

in conjunction with the purchase of an insurance policy authorized by s. 718.111(11), approved in accordance with the condominium documents shall be set forth in a written notice of such assessment sent or delivered to each unit owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered common surplus, and may, at the discretion of the board, either be returned to the unit owners or applied as a credit toward future assessments.

Section 12. Paragraph (a) of subsection (4) of section 718.121, Florida Statutes, is amended to read:

718.121 Liens.—

(4)(a) If an association sends out an invoice for assessments or a unit's statement of the account described in s. 718.111(12)(a)11.c. ~~s. 718.111(12)(a)11.b.~~, the invoice for assessments or the unit's statement of account must be delivered to the unit owner by first-class United States mail or by electronic transmission to the unit owner's e-mail address maintained in the association's official records.

Section 13. Section 718.1224, Florida Statutes, is amended to read:

718.1224 Prohibition against SLAPP suits; other prohibited actions.—

(1) It is the intent of the Legislature to protect the right of condominium unit owners to exercise their rights to instruct their representatives and petition for redress of grievances before their condominium association and the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that strategic lawsuits against public participation, or "SLAPP suits," as they are typically referred to, have occurred when association members are sued by condominium associations, individuals, business entities, or governmental entities arising out of a condominium unit owner's appearance and presentation before the board of the condominium association or a governmental entity on matters related to the condominium association. However, it is the public policy of this state that condominium associations, governmental entities, business organizations, and individuals not engage in SLAPP suits, because such actions are inconsistent with the right of condominium unit owners to participate in their condominium association and in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by condominium associations, governmental entities, business entities, and individuals against condominium unit owners who address matters concerning their condominium association will preserve this fundamental state policy,

preserve the constitutional rights of condominium unit owners, ~~and~~ ensure the continuation of representative government in this state, and ensure unit owner participation in condominium associations. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts. As used in this subsection, the term "governmental entity" means the state, including the executive, legislative, and judicial branches of government; law enforcement agencies; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies of these branches that are subject to chapter 286.

(2) A condominium association, governmental entity, business organization, or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against a condominium unit owner without merit and solely because such condominium unit owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the condominium association or the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

(3) It is unlawful for a condominium association to fine, discriminatorily increase a unit owner's assessments, discriminatorily decrease services to a unit owner, or bring or

threaten to bring an action for possession or other civil action, including a defamation, libel, slander, or tortious interference action, based on conduct described in this subsection. In order for the unit owner to raise the defense of retaliatory conduct, the unit owner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which a condominium association, an officer, a director, or an agent of an association may not retaliate include, but are not limited to, situations in which:

(a) The unit owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the condominium;

(b) The unit owner has organized, encouraged, or participated in a unit owners' organization;

(c) The unit owner submitted information or filed a complaint alleging criminal violations or violations of this chapter or the rules of the division with the division, the Office of the Condominium Ombudsman, a law enforcement agency, a state attorney, the Attorney General, or any other governmental agency;

(d) The unit owner has exercised his or her rights under this chapter;

(e) The unit owner has complained to the association or any of the association's representatives for the failure to comply with this chapter or chapter 617; or

(f) The unit owner has made public statements critical of the operation or management of the association.

(4) Evidence of retaliatory conduct may be raised by the unit owner as a defense in any action brought against him or her for possession.

(5)~~(3)~~ A condominium unit owner sued by a condominium association, governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. A condominium unit owner may petition the court for an order dismissing the action or granting final judgment in favor of that condominium unit owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the condominium association's, governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The condominium association, governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the condominium association's, governmental

entity's, business organization's, or individual's response. The court may award the condominium unit owner sued by the condominium association, governmental entity, business organization, or individual actual damages arising from the condominium association's, governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing condominium unit owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

(6) ~~(4)~~ Condominium associations may not expend association funds in prosecuting a SLAPP suit against a condominium unit owner.

(7) Condominium associations may not expend association funds in support of a defamation, libel, slander, or tortious interference action against a unit owner or any other claim against a unit owner based on conduct described in subsection (3).

Section 14. 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 turnover inspection report included in the official records, under seal of an architect or engineer authorized to practice in this state or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, and <u>consisting of a structural integrity reserve study</u> attesting to required maintenance, condition, useful life, and replacement costs of the following applicable condominium property:

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. Plumbing.

5. Electrical systems.

6. Waterproofing and exterior painting.

7. Windows and exterior doors.

Section 15. Subsections (4) and (5) of section 718.3027, Florida Statutes, are amended to read:

718.3027 Conflicts of interest.—

(4) A director or an officer, or a relative of a director or an officer, who is a party to, or has an interest in, an activity that is a possible conflict of interest, as described in subsection (1), may attend the meeting at which the activity is considered by the board and is authorized to make a presentation to the board regarding the activity. After the presentation, the director or officer, and any ~~or the~~ relative of the director or officer, must leave the meeting during the discussion of, and the vote on, the activity. A director or an officer who is a party to, or has an interest in, the activity must recuse himself or herself from the vote. The attendance of a director or an officer with a possible conflict of interest at the meeting of the board is sufficient to constitute a quorum for the meeting and the vote in his or her absence on the proposed activity.

(5) A contract entered into between a director or an officer, or a relative of a director or an officer, and the association, which is not a timeshare condominium association, that has not been properly disclosed as a conflict of interest

or potential conflict of interest as required by this section or s. 617.0832 ~~s. 718.111(12)(g)~~ is voidable and terminates upon the filing of a written notice terminating the contract with the board of directors which contains the consent of at least 20 percent of the voting interests of the association.

Section 16. Subsection (5) of section 718.303, Florida Statutes, is amended to read:

718.303 Obligations of owners and occupants; remedies.—

(5) An association may suspend the voting rights of a unit owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the association which is more than $1,000 and more than 90 days delinquent. Proof of such obligation must be provided to the unit owner or member 30 days before such suspension takes effect. At least 90 days before an election, an association must notify a unit owner or member that his or her voting rights may be suspended due to a nonpayment of any fee, or monetary obligation. A voting interest or consent right allocated to a unit owner or member which has been suspended by the association shall be subtracted from the total number of voting interests in the association, which shall be reduced by the number of suspended voting interests when calculating the total percentage or number of all voting interests available to take or approve any action, and the suspended voting interests shall not be considered for any purpose, including, but not limited to, the percentage or number

of voting interests necessary to constitute a quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests required to approve an action under this chapter or pursuant to the declaration, articles of incorporation, or bylaws. The suspension ends upon full payment of all obligations currently due or overdue the association. The notice and hearing requirements under subsection (3) do not apply to a suspension imposed under this subsection.

Section 17. Subsections (1) and (2) of section 718.501, Florida Statutes, are amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has

occurred, the division has jurisdiction to investigate complaints alleging violations of this chapter or any rule or order hereunder. ~~related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g).~~

(a)1. The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms.

2. The division may submit any official written report, worksheet, or other related paper, or a duly certified copy thereof, compiled, prepared, drafted, or otherwise made by and duly authenticated by a financial examiner or analyst to be admitted as competent evidence in any hearing in which the financial examiner or analyst is available for cross-examination and attests under oath that such documents were prepared as a result of an examination or inspection conducted pursuant to this chapter.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings

and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to pay any restitution determined by the division to be owed, plus any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division must bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

5. The division may apply to the circuit court for an order of restitution whereby the defendant in an action brought under subparagraph 4. is ordered to make restitution of those

sums shown by the division to have been obtained by the defendant in violation of this chapter. At the option of the court, such restitution is payable to the conservator or receiver appointed under subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter or related rule. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates this chapter, an adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily

comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed $5,000. The division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, upon the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts

collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county in which ~~where~~ the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records at the location in

which ~~where~~ the records are kept pursuant to s. 718.112. Upon receipt of the records, the division must provide to the unit owner who was denied access to such records the produced official records without charge.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (r). The civil penalty shall be at least $500 but no more than $5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division may adopt rules to administer and enforce this chapter.

(g) The division shall establish procedures for providing notice to an association and the developer, bulk assignee, or bulk buyer during the period in which the developer, bulk assignee, or bulk buyer controls the association if the division is considering the issuance of a declaratory statement with respect to the declaration of condominium or any related document governing such condominium community.

(h) The division shall furnish each association that pays the fees required by paragraph (2)(a) a copy of this chapter, as amended, and the rules adopted thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training and educational programs for condominium association board members and unit owners. The training may, in the division's discretion, include web-based electronic media and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner. The division shall provide to directors of the board of administration at no charge the educational curriculum required under s. 718.112(2)(d) and issue a certificate of satisfactory completion, including when the required educational curriculum is provided by a division-approved condominium education provider.

(k) The division shall maintain a toll-free telephone number accessible to condominium unit owners.

(l) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in alternative dispute resolution proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements adopted by rule.

(m) If a complaint is made, the division must conduct its inquiry with due regard for the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and, within 90 days after receipt of the

original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing under ss. 120.569 and 120.57. The division may adopt rules regarding the submission of a complaint against an association.

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair its verity or availability in the department's investigation.

The division shall refer to local law enforcement authorities any person whom the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or when the division has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.

(o) The division director or any officer or employee of the division and the condominium ombudsman or any employee of the Office of the Condominium Ombudsman may attend and observe any meeting of the board of administration or unit owner meeting, including any meeting of a subcommittee or special committee, which is open to members of the association for the purpose of performing the duties of the division or the Office of the Condominium Ombudsman under this chapter.

(p) ~~(o)~~ The division may:

1. Contract with agencies in this state or other jurisdictions to perform investigative functions; or

2. Accept grants-in-aid from any source.

(q) ~~(p)~~ The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, public offering statements, advertising standards, and rules and common administrative practices.

(r) ~~(q)~~ The division shall consider notice to a developer, bulk assignee, or bulk buyer to be complete when it is delivered to the address of the developer, bulk assignee, or bulk buyer currently on file with the division.

(s) ~~(r)~~ In addition to its enforcement authority, the division may issue a notice to show cause, which must provide for a hearing, upon written request, in accordance with chapter 120.

(t) The division shall routinely conduct random audits of condominium associations to determine compliance with the website or application requirements for official records under s. 718.111(12)(g).

(u) ~~(s)~~ The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

(2)(a) Each condominium association that ~~which~~ operates more than two units shall pay to the division an annual fee in

the amount of $4 for each residential unit in condominiums operated by the association. The annual fee shall be filed together with the annual certification described in paragraph (c). If the fee is not paid by March 1, the association shall be assessed a penalty of 10 percent of the amount due, and the association will not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(b) All fees shall be deposited in the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund as provided by law.

(c) On the certification form provided by the division, the directors of the association shall certify that each director of the association has completed the written certification and educational certificate requirements in s. 718.112(2)(d)4.b.

Section 18. Subsection (2) of section 718.5011, Florida Statutes, is amended to read:

(2) The ~~Governor~~ Secretary shall appoint the ombudsman. The ombudsman ~~must be an attorney admitted to practice before the Florida Supreme Court and~~ shall serve at the pleasure of the Governor. A vacancy in the office shall be filled in the same manner as the original appointment. An officer or full-time employee of the ombudsman's office may not actively engage in any other business or profession that directly or indirectly

relates to or conflicts with his or her work in the ombudsman's office; serve as the representative of any political party, executive committee, or other governing body of a political party; serve as an executive, officer, or employee of a political party; receive remuneration for activities on behalf of any candidate for public office; or engage in soliciting votes or other activities on behalf of a candidate for public office. The ombudsman or any employee of his or her office may not become a candidate for election to public office unless he or she first resigns from his or her office or employment.

Section 19. Paragraphs (j) and (k) 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 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. The amount to be reserved 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. In a budget adopted by an association that is required to obtain a structural integrity reserve study, reserves must be maintained for the items identified in paragraph (k) for which the association is responsible pursuant to the declaration, and the reserve amount for such items must be based on the findings and recommendations of the association's most recent structural integrity reserve study. With respect to items for which an estimate of useful life is not readily ascertainable or with an estimated remaining useful life of greater than 25 years, an association is not required to reserve replacement costs for such items, but an association must reserve the amount of deferred maintenance expense, if any, which is recommended by the structural integrity reserve study

for such items. The association may adjust replacement reserve assessments annually to take into account an inflation adjustment and 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 of the total voting interests 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. For a budget adopted on or after December 31, 2024, a unit-owner-controlled association that must obtain a structural integrity reserve study 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 total voting interests 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. For a budget adopted on or after December 31, 2024, members of a unit-owner-controlled association that must obtain a structural integrity reserve study may not vote to use reserve funds, or any interest accruing thereon, for purposes other than the replacement or deferred maintenance costs of the components listed in paragraph (k).

(k) *Structural integrity reserve study.*—

1. A residential cooperative 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, as determined by the Florida Building Code, 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. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. 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.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the cooperative property. 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 or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

3. At a minimum, a structural integrity reserve study must identify each item of the cooperative property being visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of each item of the cooperative property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each item of cooperative

property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a deferred maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a deferred maintenance expense amount for such item.

4. This paragraph does not apply to buildings less than three stories in height; single-family, two-family, or three-family dwellings with three or fewer habitable stories above ground; any portion or component of a building that has not been submitted to the cooperative form of ownership; or any portion or component of a building that is maintained by a party other than the association.

5. Before a developer turns over control of an association to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 719.301(4)(p) and (q) for each building on the cooperative property that is three stories or higher in height.

6. Associations 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.

7. 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.

8. If the officers or directors of an association willfully and knowingly fail 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(9).

9. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery

at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

Section 20. 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 turnover inspection report included in the official records, under seal of an architect or engineer authorized to practice in this state or a

person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts, consisting of a structural integrity reserve study attesting to required maintenance, condition, useful life, and replacement costs of the following applicable cooperative property:

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. Plumbing.

5. Electrical systems.

6. Waterproofing and exterior painting.

7. Windows and exterior doors.

Section 21. The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation shall complete a review of the website or application requirements for official records under s. 718.111(12)(g), Florida Statutes, and make recommendations regarding any additional official records of a condominium association that should be included in the record maintenance requirement in the statute. The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative

appropriations committees and appropriate substantive committees with jurisdiction over chapter 718, Florida Statutes, the findings of its review by February 1, 2025.

Section 23. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert: amending s. 468.4334, F.S.; requiring community association managers and community association management firms to return official records of an association within a specified time after termination of a contract; providing a rebuttable presumption regarding noncompliance; providing penalties for the failure to timely return official records; creating s. 468.4335, F.S.; requiring community association managers and community association management firms to disclose certain conflicts of interest to the association's board; providing a rebuttable presumption as to the existence of a conflict; requiring an association to consider multiple bids for goods or services under certain circumstances; providing requirements for an association to approve any activity that is a conflict of interest; authorizing certain contracts to be canceled, subject to certain requirements; specifying liability and nonliability of the association upon cancellation of such a contract; authorizing an association to cancel a contract if certain

conflicts were not disclosed; specifying liability and nonliability of the association upon cancellation of a contract; defining the term "relative"; reenacting and amending s. 468.436, F.S.; revising the list of grounds for which the Department of Business and Professional Regulation may take disciplinary actions against community association managers or community association firms; amending s. 718.103, F.S.; revising and providing definitions; amending s. 718.104, F.S.; requiring declarations to specify the entity responsible for the installation, maintenance, repair, or replacement of hurricane protection; amending s. 718.111, F.S.; providing criminal penalties for any officer, director, or manager of an association who unlawfully solicits, offers to accept, or accepts any thing or service of value or kickback; revising the list of records that constitute the official records of an association; revising maintenance requirements for official records; revising requirements regarding requests to inspect or copy association records; requiring an association to provide a checklist and affidavit in response to certain records requests; providing a rebuttable presumption and criminal penalties; defining the term "repeatedly"; requiring copies of certain building permits be posted on an association's website or application; modifying the method of delivery of certain letters regarding association financial reports to unit owners; revising circumstances under which an association may prepare certain

reports; revising criminal penalties for persons who unlawfully use a debit card issued in the name of an association; defining the term "lawful obligation of the association"; revising the threshold for associations that must post certain documents on its website or through an application; amending s. 718.112, F.S.; requiring the boards of certain associations to meet at least once every quarter; revising requirements regarding notice of such meetings; requiring a director to complete an educational requirement within a specified time period before or after election or appointment to the board; providing transitional provisions; requiring a director to complete educational requirements each year relating to changes in the law; authorizing members of an association to waive reserves or reduce reserves under certain circumstances and for a limited time; requiring an association to distribute or deliver copies of a structural integrity reserve study to unit owners within a specified timeframe; specifying the manner of distribution or delivery; revising the circumstances under which a director or an officer must be removed from office after being charged by information or indictment of certain crimes; prohibiting such officers and directors with pending criminal charges from accessing the official records of any association; providing an exception; providing criminal penalties for certain fraudulent voting activities relating to association elections; amending s. 718.113, F.S.; providing applicability; specifying that certain

actions are not material alterations or substantial additions; authorizing the boards of residential and mixed-use condominiums to install or require unit owners to install hurricane protection; requiring a vote of the unit owners for the installation of hurricane protection; requiring that such vote be attested to in a certificate and recorded in certain public records; providing requirements for such certificate; providing that the validity or enforceability of a vote is not affected if the board fails to take certain actions; providing that a vote of the unit owners is not required under certain circumstances; prohibiting installation of the same type of hurricane protection previously installed; providing exceptions; prohibiting the boards of residential and mixed-use condominiums from refusing to approve certain hurricane protections; authorizing the board to require owners to adhere to certain guidelines regarding the external appearance of a condominium; revising responsibility for the cost of the removal or reinstallation of hurricane protection, including exterior windows, doors, or apertures; prohibiting the association from charging certain expenses to unit owners; requiring reimbursement or a credit toward future assessments to the unit owner in certain circumstances; authorizing the association to collect certain charges and specifying that such charges are enforceable as assessments under certain circumstances; amending s. 718.115, F.S.; specifying when the cost of installation of

hurricane protection is not a common expense; authorizing certain expenses to be enforceable as assessments; requiring certain unit owners to be excused from certain assessments or to receive a credit for hurricane protection that has been installed; providing credit applicability under certain circumstances; providing for the amount of credit that a unit owner must receive; specifying that certain expenses are common expenses; amending s. 718.116, F.S.; requiring that the written notice of certain assessments be recorded in the public records; amending s. 718.121, F.S.; conforming a cross-reference; amending s. 718.1224, F.S.; revising legislative findings and intent; revising the definition of the term "governmental entity"; prohibiting an association from filing strategic lawsuits, taking certain actions against unit owners, and expending funds to support certain actions; amending s. 718.301, F.S.; requiring developers to deliver a structural integrity reserve report to an association upon relinquishing control of the association; amending s. 718.3027, F.S.; revising requirements regarding attendance at a board meeting in the event of a conflict of interest; modifying circumstances under which a contract may be voided; amending s. 718.303, F.S.; requiring that a notice of nonpayment be provided to a unit owner by a specified time before an election or a vote of association members; amending s. 718.501, F.S.; revising circumstances under which the Division of Florida Condominiums,

Timeshares, and Mobile Homes has jurisdiction to investigate and enforce certain matters; requiring that the division provide official records, without charge, to a unit owner denied access; requiring the division to provide an educational curriculum free of charge and issue a certificate to directors of a board of administration; requiring that the division refer suspected criminal acts to the appropriate law enforcement authority; authorizing certain division officials to attend association meetings; requiring that the division conduct random audits of associations for specified purposes; requiring an association's annual fee be filed concurrently with the annual certification; specifying requirements for the annual certification; amending s. 718.5011, F.S.; relating to ombudsman appointment; amending s. 719.106, F.S.; requiring an association to distribute or deliver copies of a structural integrity reserve study to unit owners within a specified timeframe; specifying the manner of distribution or delivery; amending s. 719.301, F.S.; requiring developers to deliver a structural integrity reserve study to a cooperative association upon relinquishing control of association property; requiring the division to submit its findings, including any recommendations, to the Governor and the Legislature by a specified date; providing effective dates.

HB 1245

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1245 Veterinary Professional Associates
SPONSOR(S): Killebrew and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1038

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Phelps	Anstead
2) Civil Justice Subcommittee			
3) 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).

Currently, there are approximately 13,000 veterinarians in the state of Florida. Some estimates indicate that 70 percent of Florida households own a pet, meaning that there may be at least five million pets in Florida. Many experts believe there are not enough veterinarians to handle the growing pet population in the state.

A veterinary professional health care provider, which is a similar position to the human medical profession's physician assistant (PA), is not currently authorized in the veterinary practice act.

The bill creates the title “veterinary professional associate” and allows such individuals who have obtained this title, working under the supervision of a veterinarian, to practice veterinary medicine on a limited basis, as follows:

- Allows the title "veterinary professional associate" to be used only by an individual who has successfully completed an approved program.
- Unless otherwise prohibited by federal or state law, authorizes a veterinary professional associate to practice veterinary medicine, while working under the supervision of a Florida licensed veterinarian.
- Prohibits a veterinary professional associate from:
  - Prescribing medicinal drugs or controlled substances.
  - Except for sterilizations or dental surgeries, performing a surgical procedure.
- Makes supervising veterinarians using a veterinary professional associate liable for any acts or omissions of the veterinary professional associate acting under the veterinarian's supervision and control.

The bill provides an effective date of July 1, 2024.

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); 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,[6] or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision[7] 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[8] institutions;
- 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;

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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. Section 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] 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 Jan. 16, 2024).
[7] 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.
[8] Ss. 474.203(1)-(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 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[9] 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.[10]

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.[11] 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.[12]

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.[13]

For Fiscal Year 2022-2023, there were 13,285 actively licensed veterinarians in Florida. DBPR received 484 complaints, which resulted in 16 disciplinary actions.[14]

Immediate Supervision

The practice act defines "immediate supervision" to mean that a "licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided."[15]

Veterinary tasks requiring immediate supervision include:[16]
- Administering anesthesia and tranquilization by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian.
- Administering certain vaccinations by a veterinary aide, nurse, technician, intern or other employee of a licensed veterinarian which is not specifically prohibited.

The following tasks may be performed without the licensed veterinarian on the premises:[17]
- Administering medication and treatment, excluding vaccinations, as directed by the licensed veterinarian; and
- Obtaining samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.

Veterinarian Shortage

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[9] *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 ...."
[10] *See* s. 474.203, F.S.
[11] S. 474.215(1), F.S.
[12] S. 474.216, F.S.
[13] S. 474.2185, F.S.
[14] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2022-2023*, http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2022-23.pdf (last visited Jan. 16, 2024).
[15] S. 4764.202(5), F.S.
[16] R. 61G18-17.005, F.A.C.
[17] *Id.*

According to a survey conducted by the American Pet Products Association (APPA), 70 percent of U.S. households, or about 90.5 million families, own a pet. This is an increase from 56 percent of U.S. households in 1988, and 67 percent in 2019.[18] As a result, experts say there is a shortage of veterinarians in the U.S., which is expected to result in the need for approximately 15,000 veterinarians by the year 2030.[19] A study from Banfield Pet Hospital reveals an estimated 75 million pets in the U.S. may not have access to the veterinary care they need by 2030, with an important factor being a critical shortage of veterinarians.[20]

The University of Florida's Dean of the College of Veterinary Medicine, Dana Zimmel, has indicated that there is a shortage of veterinarians in Florida, which in addition to pets has "1.7 million beef cattle and dairy cows, more horses than Kentucky and an alarming decline of manatee." The state's only veterinary medical college, the University of Florida, also reports that due to limited capacity, it must turn away 1,500 qualified candidates a year.[21]

According to the American Veterinary Medical Association (AVMA), "conditions have pushed the idea of a midlevel practitioner to the fore as veterinary practices have struggled to meet service demands. This issue has been compounded by continued inefficiencies in practices as pandemic disruptions persist and client expectations for availability and convenience. Inflation has also increased costs for labor and for products such as medical equipment and medications, creating additional concern around clients' ability to afford needed care. Additionally, retention of veterinary practice staff members and attrition from the profession are ongoing and increasing concerns."[22] The AVMA found that a midlevel practitioner may not be the best option to address these concerns, and that "time and effort should be spent on resources, tools, and programs designed to retain veterinarians and credentialed veterinary technicians; further develop veterinary technician specialties; help veterinary practices operate at optimum efficiency; and effectively collaborate—within practice teams and across the profession—to meet clients' needs for high-quality veterinary services."[23]

However, according to a study conducted by the National Library of Medicine, "the projected shortage of veterinarians has created a need to explore alternatives designed to meet society's future demands. A veterinary professional health care provider, similar to the human medical profession's physician assistant (PA), is one such alternative. It is suggested that perhaps veterinary professional associates, modeled after PAs, could be employed to handle routine veterinary care and thereby allow veterinarians additional time to focus on the more demanding and challenging aspects of veterinary medicine. Perhaps a team approach, similar to the physician/PA team, could help the field of veterinary medicine to better serve both clients and patients. As veterinary medicine directs its attention toward the new challenges on the horizon, creative solutions will be needed. Perhaps some variation of a veterinary professional associate is worthy of future discussion."[24]

Human PAs

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[18] Insurance Information Institute, *Facts + Statistics: Pet Ownership and Insurance*, https://www.iii.org/fact-statistic/facts-statistics-pet-ownership-and-insurance#:~:text=Seventy%20percent%20of%20U.S.%20households,and%2067%20percent%20in%202019. (last visited Jan. 16, 2024).

[19] Spectrum News 13, *Mobile 'ElleVet' clinic helps relieve veterinarian shortage*, https://www.mynews13.com/fl/orlando/news/2023/02/03/the-ellevet-project-#:~:text=%E2%80%94%20Experts%20say%20there's%20a%20shortage,States%20may%20not%20get%20care. (last visited Jan. 16, 2024).

[20] Banfield Pet Hospital, *75 million pets may not have access to veterinary care by 2030, New Banfield® study finds*, https://www.banfield.com/en/about-banfield/newsroom/press-releases/2020/75-million-pets-may-not-have-access-to-veterinary (last visited Jan. 16, 2024).

[21] Dana Zimmel, *Florida needs more veterinarians | Column*, Tampa Bay Times (Jan. 3, 2022), https://www.tampabay.com/opinion/2022/01/03/florida-needs-more-veterinarians-column/ (last visited Jan. 21, 2024).

[22] American Veterinary Medical Association, AVMA News, *Idea of midlevel practitioner rejected in favor of better support, engagement of credentialed veterinary technicians* (Jan. 10, 2023), https://www.avma.org/news/idea-midlevel-practitioner-rejected-favor-better-support-engagement-credentialed-veterinary (last visited Jan. 16, 2024).

[23] *Id.*

[24] Lori Kogan, Sherry Stewart, *Veterinary professional associates: does the profession's foresight include a mid-tier professional similar to physician assistants?,* National Library of Medicine (2009), https://pubmed.ncbi.nlm.nih.gov/19625672/ (last visited Jan. 16, 2024).

According to the Mayo Clinic, PAs are "licensed medical professionals who hold an advanced degree and are able to provide direct patient care. They work with patients of all ages in virtually all specialty and primary care areas, diagnosing and treating common illnesses and working with minor procedures. With an increasing shortage of health care providers, PAs are a critical part of today's team-based approach to health care. They increase access to quality health care for many populations and communities. The specific duties of a PA are determined by their supervising physician and state law, but they provide many of the same services as a primary care physician. They practice in every state and in a wide variety of clinical settings and specialties."[25]

In Florida, PAs are licensed medical professionals that are authorized to perform services delegated by a supervising physician.[26] PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. During fiscal year 2022-2023, there were 11,504 actively licensed PAs in the state, and 1,471 initial PA licenses were issued by the Florida Department of Health.[27]

Effect of the Bill

The bill creates the title "veterinary professional associate" and allows individuals working under the supervision of a veterinarian to practice veterinary medicine on a limited basis, as follows:

- Provides the following legislative findings:

  > the practice in this state of veterinary professional associates, with their education, training, and experience in the field of veterinary medicine, will provide increased efficiency of and access to high-quality veterinary medical services at a reasonable cost to consumers.

- Defines the following terms:
  - "Approved program" means a master's program in veterinary clinical care, or the equivalent, in the United States or in its territories or possessions from an accredited school of veterinary medicine.
  - "Supervision" means responsible supervision and control, and, except in cases of emergency, requires the easy availability or physical presence of a licensed veterinarian for consultation and direction of the actions of a veterinary professional associate. For the purposes of this paragraph, the term "easy availability" includes the ability to communicate by way of telecommunication.
  - "Veterinary professional associate" means a person who has earned a master's degree from an approved program or who meets standards approved by the Board and is authorized to perform veterinary medical services delegated by a supervising veterinarian.
- Allows the title "veterinary professional associate" to be used only by an individual who has successfully completed an approved program.
- Unless otherwise prohibited by federal or state law, authorizes a veterinary professional associate to perform duties or actions, including those identified in s. 474.202(9) and (13), F.S., (practice of veterinary medicine) in which he or she is competent and has the necessary training, current knowledge, and experience to perform, as assigned by a veterinarian licensed in this state while working under the supervision of that veterinarian.
- Prohibits a veterinary professional associate from:

[25] Mayo Clinic College of Medicine and Science, *Physician Assistant*, https://college.mayo.edu/academics/explore-health-care-careers/careers-a-z/physician-assistant/ (last visited Jan. 16, 2024).
[26] Ss. 458.347(2)(e) and 459.022(2)(e).
[27] Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long-Range Plan, Fiscal Year 2022-2023, https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/MQAAnnualReport2022-2023.pdf (last visited Jan. 16, 2024).

    - Prescribing medicinal drugs or drugs as defined in s. 465.003(15) or a controlled substance listed in s. 893.03.
    - Except for veterinary sterilizations or veterinary dental surgeries, performing a surgical procedure.
- Makes each supervising veterinarian using a veterinary professional associate liable for any acts or omissions of the veterinary professional associate acting under the veterinarian's supervision and control.

B. SECTION DIRECTORY:

Section 1: Creates the title, “Veterinary Workforce Innovation Act.”

Section 2: Creates s. 474.2126, F.S., relating to veterinary professional associate.

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill may reduce the amount of rabies cases and other animal diseases, infections, and illnesses in the state, the associated risks to the health of humans and animals, and related expenses to the public and private sector.

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:

   None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to veterinary professional associates; providing a short title; creating s. 474.2126, F.S.; providing legislative findings; defining terms; authorizing certain individuals to use the title "veterinary professional associate"; authorizing such associates to perform certain duties and actions; prohibiting such associates from prescribing certain drugs or controlled substances or performing surgical procedures; providing exceptions; providing that supervising veterinarians are liable for the acts or omissions of veterinary professional associates under their supervision and control; providing an effective date.

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

Section 1. This act may be cited as the "Veterinary Workforce Innovation Act."

Section 2. Section 474.2126, Florida Statutes, is created to read:

474.2126 Veterinary professional associate.—

(1) The Legislature finds that the practice in this state of veterinary professional associates, with their education, training, and experience in the field of veterinary medicine,

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

will provide increased efficiency of and access to high-quality veterinary medical services at a reasonable cost to consumers.

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

(a) "Approved program" means a master's program in veterinary clinical care, or the equivalent, in the United States or in its territories or possessions from an accredited school of veterinary medicine.

(b) "Supervision" means responsible supervision and control, and, except in cases of emergency, requires the easy availability or physical presence of a licensed veterinarian for consultation and direction of the actions of a veterinary professional associate. For the purposes of this paragraph, the term "easy availability" includes the ability to communicate by way of telecommunication.

(c) "Veterinary professional associate" means a person who has earned a master's degree from an approved program or who meets standards approved by the board and is authorized to perform veterinary medical services delegated by a supervising veterinarian.

(3) The title "veterinary professional associate" may be used only by an individual who has successfully completed an approved program.

(4) Unless otherwise prohibited by federal or state law, a veterinary professional associate may perform duties or actions, including those identified in s. 474.202(9) and (13), in which

he or she is competent and has the necessary training, current knowledge, and experience to perform, as assigned by a veterinarian licensed in this state while working under the supervision of that veterinarian. A veterinary professional associate may not do either of the following:

(a) Prescribe medicinal drugs or drugs as defined in s. 465.003(15) or a controlled substance listed in s. 893.03.

(b) Except for veterinary sterilizations or veterinary dental surgeries, perform a surgical procedure.

(5) Each supervising veterinarian using a veterinary professional associate is liable for any acts or omissions of the veterinary professional associate acting under the veterinarian's supervision and control.

Section 3. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1327 Charitable Organizations
SPONSOR(S): Persons-Mulicka
TIED BILLS: **IDEN./SIM. BILLS:** SB 1458

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

SUMMARY ANALYSIS

The Division of Consumer Services (Division) within DACS is the state's clearinghouse for consumer complaints, information and protection. The Division regulates various businesses, including charitable organizations. Chapter 496, F.S., the Solicitation of Contributions Act (SCA), is the chapter of Florida law that governs the solicitation of funds. The SCA requires charitable organizations that intend to solicit donations in Florida to register with DACS. The SCA contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors. The SCA does not currently prohibit the source of contributions or limit the involvement of any entities in the SCA.

The bill amends the SCA, as follows:

- Prohibits charitable organizations from soliciting or accepting contributions or anything of value, including contributions or any other assistance, from certain sources related to a "foreign country of concern."
- Requires DACS to create an "Honest Services Registry" to provide the residents of this state with the information necessary to make an informed choice when deciding which charitable organizations to support.
- Provides that to be included in the Honest Services Registry, charitable organizations must at a minimum, submit to DACS, using statutory verification requirements, an attestation that:
    - The organization does not solicit or accept, directly or indirectly, funding, support, or services from a foreign source of concern; and
    - The organization's messaging and content is not directly or indirectly produced or influenced by a foreign source of concern.
- Requires DACS to publish the Honest Services Registry on its website, and adopt rules to implement these requirements.
- Defines "foreign country of concern" as the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.

The bill may have an indeterminate fiscal impact on state government and the private sector. The bill does not appear to have a fiscal impact on local government.

The effective date of the bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Nefarious Use of Non-profit Organizations

Recently, it has been found that a number of extremist and hate groups are registered as tax-exempt organizations with the Internal Revenue Service (IRS), allowing them significant financial benefits. There are many reasons such groups may seek tax-exempt status with the IRS. This status allows groups to raise money or financing while avoiding state and federal income and unemployment taxes. In some cases, tax exempt organizations can sidestep property taxes, sales taxes, and employment taxes.[1]

The US House of Representatives Committee on Natural Resources, in part, provides oversight of the potential manipulation of tax-exempt organizations by foreign entities to influence US environmental and natural resources policy to negatively influence US national security.[2] In 2018, the committee found that one such organization had arranged meetings with US politicians, held press conferences and coordinated publicity events on behalf of foreign activists in efforts opposing US national defense.[3] The committee found that such organizations use litigation as a tool in their obstruction efforts, and also found that the groups underreport the amount of taxpayer dollars that they receive.

In 2023, the US Office of National Intelligence released its "Annual Threat Assessment of the US Intelligence Community," which outlined the growing threat America faces from foreign interests, such as China and Russia. Specifically, the report found such foreign interests are "using a variety of tools", like front groups, in order to "build influence at the state and local level to shift U.S. policy in their favor because of the belief that local officials are more pliable than their federal counterparts."[4]

People's Republic of China Influence Efforts

The US National Counterintelligence and Security Center recently warned about "deceptive and coercive" influence operations by the People's Republic of China (PRC). Security experts say that the PRC efforts are widespread and tailored to local communities. The Center warned that a PRC entity known as the United Front Work Department (UFWD) plays a leading role in foreign influence efforts. The UFWD coordinates and conducts influence operations globally through various front organizations.[5]

The US House Select Committee on Strategic Competition Between the United States and the Chinese Communist Party (CCP), recently released a memo on the influence operations of the UFWD. UFWD work is a unique blend of influence and interference activities, as well as intelligence operations that is used to shape the political environment, influence other countries' policy toward the PRC, and gain access to advanced foreign technology. It is coordinated by the UFWD and carried out by an extensive network of organizations and individuals operating in and outside of the US, alongside the PRC's

[1] Forbes, *ADL Urges IRS To Investigate As It Warns Extremist Groups Exploit Being Registered As Charities*, https://www.forbes.com/sites/jemimamcevoy/2021/07/26/adl-urges-irs-to-investigate-as-it-warns-extremist-groups-exploit-being-registered-as-charities/?sh=7a9c50bd69c0 (last visited Jan. 25, 2024).
[2] The US House of Representatives Committee on Natural Resources, *Letter to Center for Biological Diversity, Inc*. (June 20, 2018).
[3] *Id*.
[4] US Office of National Intelligence, *Annual Threat Assessment of the U.S. Intelligence Community*, p. 10, https://www.dni.gov/files/ODNI/documents/assessments/ATA-2023-Unclassified-Report.pdf (last visited Jan. 25, 2024).
[5] Office of the Director of National Intelligence, National Counterintelligence and Security Center, *Safeguarding Our Future: Protecting Government and Business Leaders at the U.S. State and Local Level from People's Republic of China (PRC) Influence Operations,* https://www.dni.gov/files/NCSC/documents/SafeguardingOurFuture/PRC_Subnational_Influence-06-July-2022.pdf (last visited Jan. 25, 2024).

diplomatic and intelligence activities. These organizations and individuals look to influence universities, think tanks, civic groups, other prominent individuals and institutions, and public opinion broadly.[6]

The UFWD policy system uses many different types of entities to accomplish its goals, including the use of government agencies, enterprises, academic institutions, and non-government organizations (NGOs).[7]

Russian Federation Influence Efforts

Recently, it was found that over the previous 20 years, certain entities from the Russian Federation have been donating large amounts of money to some of the most prestigious non-profit institutions in the US. The list of recipients include the Brookings Institution, the Council on Foreign Relations, Harvard University, the University of Southern California, New York's Museum of Modern Art (MOMA), and the Kennedy Center in Washington D.C.[8] Because no comprehensive database of philanthropic donations exists in the United States, identifying every donation made is almost impossible. The findings of the research concluded that the donations were mostly legal, came from Russian oligarchs or the companies or foundations they run, and that these practices raise significant questions about how U.S. organizations scrutinize the money they receive.[9]

Foreign Ownership of United States Real Property

Foreign ownership and investment in U.S. agricultural land has generated significant interest in recent years.[10] Several high-profile incidents have prompted lawmakers to evaluate and respond to the potential impacts of foreign ownership and investment on national security, trade, and food security.[11]

In 2022, Fufeng Group Limited, a Chinese food manufacturer, acquired 300 acres of land 12 miles from the Grand Forks Air Force Base (AFB) in North Dakota in order to build a production plant.[12] Grand Forks AFB reportedly houses a significant amount of the nation's sophisticated military drone technology.[13] A staff research report published by the Congressionally-created U.S.-China Economic and Security Review Commission noted that the proximity of the Fufeng Group's land purchase to the base could make it conveniently situated to monitor air traffic flow in and out of the base as well as other business patterns and security-related concerns.[14]

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[6] The Select Committee on the Chinese Communist Party, *Memorandum: United Front 101*, https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/uf-101-memo-final-pdf-version.pdf (last visited Jan. 26, 2024).
[7] *Id.*
[8] CNN, *'It's shameful': Russian-linked billionaires have given enormous sums of money to the West's leading educational and cultural institutions*, https://www.cnn.com/2022/05/11/us/russian-oligarchs-philanthropy-ukraine-war-invs/index.html (last visited Jan. 25, 2024).
[9] Anti Corruption Data Collective, *AMERICA'S CULTURAL INSTITUTIONS ARE QUIETLY FUELED BY RUSSIAN CORRUPTION*, https://acdatacollective.org/work/americas-cultural-institutions-are-quietly-fueled-by-russian-corruption/ (last visited Jan. 25, 2024).
[10] *See* Aleks Phillips, *What the U.S. Is Doing to Curtail Chinese Land Ownership,* Newsweek, Feb. 13, 2023, https://www.newsweek.com/chinese-land-ownership-investment-us-military-bases-1780886 (last visited Jan. 26, 2024).
[11] *See* Letter from Congressmen Glenn "GT" Thompson & James Comer to Gene L. Dodaro, Comptroller General of the U.S. Government Accountability Office (Oct. 1, 2022), https://oversight.house.gov/wp-content/uploads/2022/10/20221001_GAO_foreignlandownership.pdf (last visited Jan. 26, 2024).
[12] Congressional Research Service (CRS), *Foreign Ownership and Holdings of U.S. Agricultural Land* (version 4, updated Jan. 24, 2023), https://crsreports.congress.gov/product/pdf/IF/IF11977 (last visited Mar. 18, 2023).
[13] Ariel Zilber, *Chinese Firm Bought North Dakota Farm Near U.S. Air Force Drone Base: Report,* New York Post, Jul. 1, 2022, https://nypost.com/2022/07/01/chinese-firm-bought-farm-near-us-air-force-drone-base-report/ (last visited Jan. 26, 2024); see *also* Letter from Thompson & Comer, *supra* note 2; *see also* Lauren Greenwood, U.S.-China Economic and Security Review Commission, *China's Interests in U.S. Agriculture: Augmenting Food Security through Investment Abroad* (May 26, 2022) https://www.uscc.gov/sites/default/files/2022-05/Chinas_Interests_in_U.S._Agriculture.pdf (last visited Jan. 26, 2024).
[14] Greenwood, *supra* note 4.

In January 2023, Andrew P. Hunter, the Assistant Secretary of the Air Force for Acquisition, Technology and Logistics,[15] sent U.S. Senator John Hoeven a letter providing the Air Force's official position on the project. The letter confirmed that the AFB is the center of military activities related to both air and space operations and that the Air Force's position was that the proposed Fufeng project presented a significant threat to national security with risks of significant impacts to military operations in that area.[16]

Additionally, there is growing concern regarding the impact of foreign land ownership on national food security. A recent letter from 130 lawmakers to the U.S. Government Accountability Office expressed concern that "foreign investment in U.S. farmland could result in foreign control of available U.S. farmland, especially prime agricultural lands, and possibly lead to foreign control over food production and food prices."[17,18]

In 2021, foreign individuals and entities held an interest in 40.8 million acres of the nation's agricultural land.[19] Foreign land holdings have increased by an average of 2.2 million acres per year since 2015.[20]

As of 2021, the states with the most foreign-owned agricultural acreage were Texas (5.3 million acres), Maine (3.6 million acres), Colorado (1.9 million acres), Alabama (1.8 million acres), and Oklahoma (1.7 million acres). Other states with more than 1 million foreign-owned acres include Florida, along with Arkansas, California, Georgia, Kansas, Louisiana, Michigan, New Mexico, Oregon, and Washington.[21]

According to the U.S. Department of Agriculture, of the 21,849,568 acres of privately held agricultural land in Florida, 1,382,284 acres (6.3 percent) are held by foreign nationals, which is among the highest proportions in the U.S.[22]

Scrutinized List of Prohibited Companies

Companies on the Scrutinized Companies with Activities in Sudan list, on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector list, or engaged in business operations[23] in Syria are prohibited from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or a local governmental entity[24] for goods or services of $1 million or more.[25] Similarly, a company on the Scrutinized Companies that Boycott Israel list or engaged in a boycott of Israel may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of any amount.[26] The State Board of Administration is charged with maintaining a complete list of scrutinized companies based on criteria outlined in statute.[27]

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[15] U.S. Air Force, *Andrew P. Hunter* (Sept. 2022), https://www.af.mil/About-Us/Biographies/Display/Article/3154079/andrew-p-hunter/ (last visited Jan. 26, 2024).
[16] Letter from Andrew P. Hunter, Office of the Assistant Secretary, to U.S. Senator John Hoeven (Jan. 27, 2023), https://www.hoeven.senate.gov/imo/media/doc/USAIRFORCE-FUFENG-LETTER-HOEVEN.pdf (last visited Jan. 26, 2024).
[17] Letter from Thompson & Comer, *supra* note 2.
[18] Rachel Treisman, NPR, *China is Buying Up More U.S. Farmland. Some Lawmakers Consider That a Security Threat* (Mar. 1, 2023), https://www.npr.org/2023/03/01/1160297853/china-farmland-purchases-house-hearing-competition (last visited Jan. 26, 2024).
[19] CRS, *supra* note 3, at 2.
[20] *Id.*
[21] *Id.*
[22] Farm Service Agency, U.S. Department of Agriculture, *Foreign Holdings of U.S. Agricultural Land Through Dec. 31, 2021*, https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/annual-reports/index (last visited Jan. 26, 2024).
[23] "Business operations" means, for purposes specifically related to Syria, engaging in commerce in any form in Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce. S. 287.135(1)(c), F.S.
[24] "Local governmental entity" means a county, municipality, special district, or other political subdivision of the state. S. 287.135(1)(d), F.S.
[25] S. 287.135(2)(b), F.S.
[26] S. 287.135(2)(a), F.S.
[27] Ss. 215.4725, and 215.473, F.S.

Foreign Countries of Concern

Federal Law

Federal law imposes many layers of scrutiny on certain dealings with foreign nationals, mostly related to science and technology having military implications, sales of arms and certain financial transactions related to terrorism, human trafficking, international drug dealing, and other important national interests. Various federal agencies publish lists related to sanctions, restrictions, and scrutiny imposed by federal law. One such list published by the U.S. Department of State is the "state sponsors of terrorism" list that currently includes Cuba, Iran, North Korea, and Syria.[28] In addition, many programs scrutinize transactions involving America's biggest global competitors, the People's Republic of China and Russia. On January 19, 2021, the U.S. Department of Commerce published an interim final rule entitled: Securing the Information and Communications Technology and Services Supply Chain.[29] That interim rule defined "foreign adversaries" to include Russia, the People's Republic of China, the Nicolás Maduro government of Venezuela, Cuba, Iran, and North Korea. This is a relatively short list of scrutinized countries compared to other federal lists of countries scrutinized in various import-export and financial oversight programs.[30] Along with Syria, a state sponsor of terrorism, these reflect the foreign governments most hostile to U.S. interests. The rule became effective on March 22, 2021.[31]

State Law

Several areas of Florida law scrutinize certain dealings with such countries. These provisions define "foreign country of concern" to mean the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.[32]

Regarding state grants and contracts, an entity that applies to a state agency or political subdivision for a grant or proposes a contract having a value of $100,000 or more is required to disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern if such interest, contract, grant or gift has a value of $50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous 5 years.[33]

Regarding state contracting with entities of foreign countries of concern, a governmental entity is prohibited from knowingly entering into a contract with an entity which would give access to an individual's personal identifying information if:[34]

- The entity is owned by the government of a foreign country of concern;
- The government of a foreign country of concern has a controlling interest in the entity; or
- The entity is organized under the laws of or has its principal place of business in a foreign country of concern.

Regarding economic incentives to foreign countries of concern, a government entity may not knowingly enter into an agreement or contract for an economic incentive with a foreign entity that is owned or controlled by the government of a foreign country of concern.[35]

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[28] U.S. Department of State, *State Sponsors of Terrorism*, https://www.state.gov/state-sponsors-of-terrorism/ (last visited March 19, 2023).
[29] 86 Fed. Reg. 4909 (Jan. 19, 2021).
[30] Such lists are published by the Department of Treasury, Office of Foreign Assets Control, Department of Commerce, Bureau of Industry and Security, Department of State, Directorate of Defense Trade Controls, as well as multiple Department of Defense and Department of Energy agencies.
[31] *See supra* note 29; *see also* 15 C.F.R. pt. 7.4 (2021).
[32] *See* ss. 122.22, 286.101, 287.138, 288.0071, 288.860, 408.810, 692.201, 836.05, F.S.
[33] S. 286.101(3)(a), F.S.
[34] S. 287.138(2), F.S.
[35] S. 288.0071, F.S.

Regarding the use of internet applications by state government employees that are created, maintained, or owned by a foreign countries of concern, current law requires a public employer to do all of the following:[36]

- Block all prohibited applications from public access on any network and virtual private network that it owns, operates, or maintains.
- Restrict access to any prohibited application on a government-issued device.
- Retain the ability to remotely wipe and uninstall any prohibited application from a government-issued device that is believed to have been adversely impacted, either intentionally or unintentionally, by a prohibited application.

A person, including an employee or officer of a public employer, may not download or access any prohibited application on any government-issued device.[37]

Regarding grants to state universities or state colleges, a state university or state college that is authorized to spend state-appropriated funds is prohibited from accepting any grant from or participating in any agreement with any college or university based in a foreign country of concern. The Board of Governors is authorized to approve such activities if the partnership or agreement is deemed by the board to be valuable to students and the school, and is not detrimental to the safety or security of the US or its residents.[38]

Foreign Agents Registration Act

The federal Foreign Agents Registration Act (FARA) requires certain agents of foreign principals who are engaged in political activities or other activities specified under the act to make periodic public disclosure of their relationship with the foreign principal, as well as activities, receipts and disbursements in support of those activities. Disclosure of the required information facilitates evaluation by the government and the American people of the activities of such persons in light of their function as foreign agents. The FARA Unit of the Counterintelligence and Export Control Section (CES) in the National Security Division (NSD) is responsible for the administration and enforcement of FARA.[39]

The regulations implementing FARA,[40] were last revised in 2007. In December 2021, the Department of Justice (DOJ) issued an advanced notice of proposed rulemaking soliciting input on 19 questions about how to revise the regulations. No draft regulation has emerged yet, but at the recent FARA conference, a DOJ representative previewed some of the more significant changes that are likely to be proposed. The DOJ may seek to reshape the so-called "Commercial Exemption,"[41] whose regulations currently exempt political activities by companies provided they don't directly promote foreign government interests, to reach political activities that predominantly benefit any foreign entities, including parent companies. This would make another popular exemption for certain parties registered under the Lobbying Disclosure Act (LDA) (which DOJ is also seeking to repeal) all the more significant and require registration by US subsidiaries that engage in registrable conduct that does not qualify as lobbying.[42]

Charitable Organizations/Solicitation of Contributions Act

The Division of Consumer Services (Division) within DACS is the state's clearinghouse for consumer complaints, information and protection. The Division regulates various businesses, including charitable organizations. Chapter 496, F.S., the Solicitation of Contributions Act (SCA), is the chapter of Florida law that governs the solicitation of funds. The SCS requires organizations that intend to solicit

[36] S. 122.22(2)(a), F.S.
[37] *Id.*
[38] S. 288.860, F.S.
[39] 22 U.S.C. § 611 et seq.
[40] 28 C.F.R., pt. 5.
[41] 22 U.S.C. § 613(d)(2).
[42] JDSUPRA, *The US Foreign Agents Registration Act (FARA): Key Issues to Watch in 2024*, https://www.jdsupra.com/legalnews/the-us-foreign-agents-registration-act-2703845/ (last visited Jan. 26, 2024).

donations in Florida to register with DACS.[43] The SCA contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors,[44] fundraising consultants, and solicitors.

Registration Statements

The SCA requires a charitable organization or sponsor, unless exempted pursuant to s. 496.406, F.S., which intends to solicit contributions to first file an initial registration statement, and a renewal statement annually, with DACS.[45]

The SCA requires initial registration statements to be submitted to DACS and include a financial report, a statement of the purpose of the charity, how donations will be used, names of individuals in charge of solicitation activities, and proof of federal tax exempt status. The charity must also identify any professional solicitors and fundraising consultants the charity will use, along with the terms of the arrangements for compensation to be paid to the consultant and solicitor. The registration must include a statement related to the charity's activity in other states, including whether the charity is authorized to operate in another state; whether the charity's registration has been denied, suspended, or revoked in another state; and whether the charity or any person associated with the charity has been subject to any adverse administrative actions or criminal convictions in any state.[46]

The following charitable organizations and sponsors are exempt from the registration requirements:

- A person who is soliciting for a named individual;
- A charitable organization or sponsor that limits solicitations of contributions to the membership of the charitable organization or sponsor;
- Any division, department, post, or chapter of certain veterans' service organizations are exempt from the registration requirements; or
- A charitable organization that has less than $50,000 in total revenue so long as they did not employ professional solicitors or have paid employees.[47]

Before soliciting contributions, the charitable organization or sponsor claiming the exemption must provide DACS with certain financial and identifying information including the name, address, and telephone number of the charitable organization or sponsor, the name under which it intends to solicit contributions, the purpose for which it is organized, and the purpose for which the contributions to be solicited will be used.[48]

Financial Statements

A charitable organization or sponsor that is required to register or renew registration must file an annual financial statement for the immediate preceding year with DACS. The statement must include:

- A balance sheet;
- A statement of support, revenue and expenses;
- Names and addresses of any charities, professional fundraising consultants, professional solicitors, and commercial co-ventures used and the amounts received from each of them; and
- A statement of functional expenses that must include program service costs, management and general costs, and fundraising costs.[49]

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[43] *See* s. 496.401, F.S.

[44] S. 496.404(25), F.S., provides that a sponsor is a group or person who is or holds itself out to be soliciting contributions by the use of a name that implies that the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and the group or person is not a charitable organization. The term includes a chapter, branch, or affiliate that has its principal place of business outside the state if the chapter, branch, or affiliate solicits or holds itself out to be soliciting contributions in the state.

[45] S. 496.405(1), F.S.

[46] S. 496.405(2), F.S.

[47] S. 496.406(1), F.S.

[48] S. 496.406(2), F.S.

[49] S. 496.407(1), F.S.

Upon the showing of good cause by a charitable organization or sponsor, is authorized to extend the time for the filing of a financial statement by up to 180 days.[50]

Professional Fundraising Consultants

Professional fundraising consultants[51] are required to annually register and pay a $300 fee to DACS before operating in Florida.[52] Additionally, professional fundraising consultants who enter into agreements with charities may do so only if the charity has complied with the SCA, and has obtained approval from DACS of a registration statement.[53]

Applications for registration or renewal must be signed by an authorized official of the professional fundraising consultant and must include certain identifying information such as:[54]

- The names and residence addresses of all principals of the applicant, including all officers, directors, and owners;
- The form of the applicant's business; and
- The street address and telephone number of the principal place of business of the applicant and any Florida street addresses if the principal place of business is located outside of Florida.

After receiving the registration statement, DACS has 15 business days to either approve the registration or notify the consultant that the registration requirements are not satisfied. If, after 15 days DCS is not notified by the consultant, the registration is deemed approved.[55]

Professional Solicitors

Professional solicitors[56] must annually register and pay a $300 fee to DACS before operating in Florida.[57] Information that must be provided for registration or renewal includes the following:[58]

- The street address and telephone number of the business;
- The form of the applicant's business;
- The place and date when the applicant was legally established;
- The names and residence addresses of all principals, including officers, directors, and owners, and
- A list of all telephone numbers to be used by the applicant to solicit contributions as well as the physical address associated with each telephone number.

After receiving the registration statement, DACS has 15 business days to either approve the registration or notify the solicitor that the registration requirements are not satisfied. If, after 15 days DACS has not notified the solicitor, the registration is deemed approved.[59]

Solicitors must also file a solicitation notice with DACS at least 15 days before beginning a solicitation campaign or event. The notice must include identifying information including residence addresses.[60]

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[50] S. 496.407(3), F.S.

[51] S. 496.404(20), F.S., provides that a professional fundraising consultant is a person retained by a charitable organization or sponsor for a fixed fee or rate under a written agreement to plan, manage, conduct, carry on, advise, consult, or prepare material for a solicitation of contributions in Florida but who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions and who does not at any time have custody or control of contributions.

[52] S. 496.409(1),(3), F.S.

[53] *See* s. 496.409(6), F.S.

[54] S. 496.409(2), F.S.

[55] S. 496.409(6), F.S.

[56] S. 496.404(21), F.S., provides that a professional solicitor is a person who, for compensation, performs for a charitable organization or sponsor a service in connection with which contributions are or will be solicited in, or from a location in, Florida by the compensated person or by a person it employs, procures, or otherwise engages, directly or indirectly, to solicit contributions, or a person who plans, conducts, manages, carries on, advises, consults, directly or indirectly, in connection with the solicitation of contributions for or on behalf of a charitable organization or sponsor but who does not qualify as a professional fundraising consultant.

[57] S. 496.410, F.S.

[58] S. 496.410(2), F.S.

[59] S. 496.410(5), F.S.

During each solicitation campaign, and for not less than three years after its completion, the solicitor must maintain certain records including addresses of contributors and employees involved in the solicitation.[61] Additionally, if solicitors sell tickets to events and represents that the tickets will be donated for use by another person, the solicitor must maintain records including addresses of contributors and of organizations that receive the donated tickets.[62]

A solicitor license must be obtained from DACS by each officer, director, trustee, or owner of a professional solicitor and any employee of a professional solicitor conducting telephonic solicitations during which a donor's or potential donor's personal financial information is requested or provided. The license application, in part, must include the name, home address, date of birth, and identification number of a government-issued ID of the applicant.[63]

Collection Receptacles for Donations

The SCA defines a "collection receptacle" as a receptacle used to collect donated clothing, household items, or other goods for resale.[64] The SCA requires all collection receptacles for donations to display a permanent sign on each side of the receptacle. For receptacles used by a charity required to register under ch. 496, F.S., the sign must provide the name, address, telephone number, and registration number of the charity.[65]

Solicitation of Funds within Public Transportation Facilities

Any person wanting to solicit funds within a public transportation facility[66] must obtain a written permit from the authority responsible for the administration of the facility.[67] The application for the permit submitted to the authority must "set forth" the:[68]

- Full name, mailing address, and telephone number of the person or organization;
- Full name, mailing address, and telephone number of each person participating in the activity as well as the person in charge of the activity;
- A description of the proposed activities;
- Dates and hours of the activities; and
- Number of persons engaged in such activities.

While conducting the activities, each solicitor must display prominently a badge or insignia provided by the authority that describes the solicitor by name, age, height, weight, eye color, hair color, address, and principal occupation and indicating the name of the organization for which the funds are solicited.[69]

Disclosure Requirements of Charitable Organizations and Sponsors

Charitable organizations or sponsors can solicit contributions only for the purpose expressed in the solicitation for contributions or the registration statement. The following disclosures must be included at the point of solicitation:[70]

- The name of the organization or sponsor and principal place of business of the organization or sponsor;
- A description of the purpose for which the solicitation is being made;

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[60] S. 496.410(6), F.S.
[61] S. 496.410(10), F.S.
[62] S. 496.410(11), F.S.
[63] S. 496.4101, F.S.
[64] S. 496.4121(1), F.S.
[65] S. 496.4121(2)(a), F.S.
[66] S. 496.425(1)(b), F.S., defines "facility" as any public transportation facility, including, but not limited to, railroad stations, bus stations, ship ports, ferry terminals, roadside welcome stations, highway service plazas, airports served by scheduled passenger service, or highway rest stations.
[67] *See* s. 496.425, F.S.
[68] S. 496.425(2), F.S.
[69] S. 496.425(6), F.S.
[70] S. 496.411, F.S.

- The name and address or telephone number of a person to whom inquiries may be addressed;
- The amount of the contribution which may be deducted from federal income tax; and
- The source from which a written financial statement may be obtained.

Sources of Contributions

The SCA does not appear to require the disclosure of any information regarding the persons or entities who are solicited by, or contribute to, the charitable organizations.

According to DACS, "there are no prohibitions on the source of contributions nor limitations on the involvement of any entities in Chapter 496, FS."[71]

Effect of Proposed Changes

The bill amends the SCA to prohibit charitable organizations from soliciting or accepting contributions or anything of value, including contributions or any other assistance, from a foreign source of concern.

The bill requires DACS to create an "Honest Services Registry" to provide the residents of this state with the information necessary to make an informed choice when deciding which charitable organizations to support.

To be included in the Honest Services Registry, the bill requires charitable organizations at a minimum, to submit to DACS, using statutory verification requirements,[72] an attestation of the following:
- The organization does not solicit or accept, directly or indirectly, funding, support, or services from a foreign source of concern; and
- The organization's messaging and content is not directly or indirectly produced or influenced by a foreign source of concern.

The bill requires DACS to publish the Honest Services Registry on its website, and adopt rules to implement these requirements.

The bill provides the following definitions:
- "Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.
- "Foreign source of concern" means any of the following:
    - The government or any official of the government of a foreign country of concern;
    - A political party or member of a political party or any subdivision of a political party in a foreign country of concern;
    - A partnership, an association, a corporation, an organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity;
    - Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States;
    - An agent, including a subsidiary or an affiliate of a foreign legal entity, acting on behalf of a foreign source of concern; or
    - An entity in which any person, entity, or collection of persons or entities described in paragraphs (a) through (e) has a controlling interest. As used in this paragraph, the term "controlling interest" means the possession of the power to direct or cause the direction of the management or policies of an entity, whether through ownership of securities, by contract, or otherwise. A person or an entity that directly or indirectly has the right to vote 25 percent or more of the voting interests of the company or is entitled to 25 percent or more of its profits is presumed to possess a controlling interest.

[71] Florida Department of Agriculture and Consumer Services, Agency Analysis of 2024 House Bill 1327, p. 2 (Jan. 22, 2024).
[72] S. 92.525, F.S.

The bill reenacts ss. 496.416 and 496.417, F.S., relating to violations as deceptive or unfair trade practices and criminal penalties, respectively, to incorporate the amendment made to s. 496.415, F.S.

The effective date of the bill is July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 496.404, F.S., relating to definitions.

Section 2: Amends s. 496.415, F.S., relating to prohibited acts.

Section 3: Creates s. 496.431, F.S., relating to Honest Services Registry.

Section 4: Amends s. 741.0305, F.S., conforming provisions relating to marriage fee reduction for completion of premarital preparation course.

Section 5: Reenacts s. 496.416, F.S., relating to violation as deceptive or unfair trade practice.

Section 6: Reenacts s. 496.417, F.S., relating to criminal penalties.

Section 7: Provides an effective date of July 1, 2024.

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:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill will have an indeterminate fiscal impact to state government and the private sector. According to DACS, the bill "potentially poses an indeterminate negative fiscal impact to the department. Nonrecurring expenditures would be based on 60 hours of programming time to implement the Honest Services Registry and recurring loss of revenue would be due to current charities being excluded based on these new requirements."[73]

[73] Florida Department of Agriculture and Consumer Services, Agency Analysis of 2024 House Bill 1327, p. 2 (Jan. 22, 2024).

Indeterminate fiscal impact to the private sector. According to DACS, "…non-profits and other charitable organizations that solicit from or provide support to organizations prohibited by these changes will receive less funding. The financial impact of these limitations cannot be determined with the limited data available."[74]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to impact counties or municipalities.
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2. Other:

First Amendment Right to Freedom of Speech

The First Amendment to the U.S. Constitution guarantees that "Congress shall make no law ... abridging the freedom of speech."[75] Generally, "government has no power to restrict expression because of its message, its ideas, its subject matter, or its content."[76] The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.[77]

Prior to July 2021, charitable organizations soliciting funds in California were required by California law to disclose the identities of their major donors to the state Attorney General's Office.[78] In 2010, the state of California increased its enforcement of charities' Schedule B IRS form disclosure obligations, and the Attorney General ultimately threatened to suspend some registrations and impose fines for noncompliance. Two tax-exempt charities that solicit contributions in California responded by filing suit in District Court alleging that the compelled disclosure requirement violated their First Amendment rights and the rights of their donors. California argued that having this information on hand would make it easier to determine misconduct by charities.[79]

On July 1, 2021, the US Supreme Court held that California's disclosure requirement was facially invalid because it burdened donors' First Amendment rights and was not narrowly tailored to an important government interest. The court reviewed the California law with the understanding that "compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other] forms of governmental action." The Court standard referred to as "exacting scrutiny"[80] requires there to be "a substantial relation between the disclosure requirement and a sufficiently important governmental interest." The Court concluded that exacting scrutiny requires that a government-mandated disclosure regime be narrowly tailored to the government's asserted interest, even if it is not the least restrictive means of achieving that end. As a result, California's blanket demand that all charities disclose Schedule Bs to the Attorney General was ruled facially unconstitutional.[81]

B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt rules to implement the Honest Services Registry. According to DACS, the "current rules would require updates to incorporate changes to applications in this program to

[74] *Id.*
[75] U.S. Const., amend. I.
[76] *Police Dept. of City of Chicago v. Mosley*, 408 U.S. 92, 95 (1972).
[77] U.S. Const. amend. XIV. *See also* Art. I, Fla. Const.
[78] Cal. Govt. Code Ann. §12584.
[79] *Americans for Prosperity Found. v. Bonta*, 141 S. Ct. 2373 (2021).
[80] *Buckley v. Valeo*, 424 U. S. 1, 64 (1976).
[81] *Americans*, *supra* note 76.

include the required attestations."[82] Current law grants DACS the authority to adopt rules to implement the provisions of the SCA.[83]

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[82] *Id.*
[83] S. 496.424, F.S.

A bill to be entitled

An act relating to charitable organizations; amending s. 496.404, F.S.; defining the terms "foreign country of concern" and "foreign source of concern"; amending s. 496.415, F.S.; prohibiting the solicitation or acceptance of contributions or anything of value from a foreign source of concern; creating s. 496.431, F.S.; requiring the Department of Agriculture and Consumer Services to create an Honest Services Registry for a specified purpose; providing requirements for charitable organizations to be included on the registry; requiring the department to publish the registry on its website; requiring the department to adopt rules; amending s. 741.0305, F.S.; conforming a cross-reference; reenacting ss. 496.416 and 496.417, F.S., relating to violations as deceptive or unfair trade practices and criminal penalties, respectively, to incorporate the amendment made to s. 496.415, F.S., in references thereto; providing an effective date.

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

Section 1. Subsections (13) through (27) of section 496.404, Florida Statutes, are renumbered as subsections (15)

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

through (29), respectively, and new subsections (13) and (14) are added to that section, to read:

496.404 Definitions.—As used in ss. 496.401-496.424, the term:

(13) "Foreign country of concern" means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.

(14) "Foreign source of concern" means any of the following:

(a) The government or any official of the government of a foreign country of concern;

(b) A political party or member of a political party or any subdivision of a political party in a foreign country of concern;

(c) A partnership, an association, a corporation, an organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, or a subsidiary of such entity;

(d) Any person who is domiciled in a foreign country of concern and is not a citizen or lawful permanent resident of the United States;

(e) An agent, including a subsidiary or an affiliate of a

foreign legal entity, acting on behalf of a foreign source of concern; or

(f) An entity in which any person, entity, or collection of persons or entities described in paragraphs (a) through (e) has a controlling interest. As used in this paragraph, the term "controlling interest" means the possession of the power to direct or cause the direction of the management or policies of an entity, whether through ownership of securities, by contract, or otherwise. A person or an entity that directly or indirectly has the right to vote 25 percent or more of the voting interests of the company or is entitled to 25 percent or more of its profits is presumed to possess a controlling interest.

Section 2. Subsection (20) is added to section 496.415, Florida Statutes, to read:

496.415 Prohibited acts.—It is unlawful for any person in connection with the planning, conduct, or execution of any solicitation or charitable or sponsor sales promotion to:

(20) Solicit or accept contributions or anything of value, including contributions or any other assistance, from a foreign source of concern.

Section 3. Section 496.431, Florida Statutes, is created to read:

496.431 Honest Services Registry.—

(1) The department shall create an Honest Services Registry to provide the residents of this state with the

information necessary to make an informed choice when deciding which charitable organizations to support.

(2) To be included on the Honest Services Registry, a charitable organization must, at a minimum, submit to the department an attestation, verified as provided in s. 92.525, of the following:

(a) The organization does not solicit or accept, directly or indirectly, funding, support, or services from a foreign source of concern.

(b) The organization's messaging and content is not directly or indirectly produced or influenced by a foreign source of concern.

(3) The department shall publish the Honest Services Registry on the department's website.

(4) The department shall adopt rules to implement this section.

Section 4. Paragraph (a) of subsection (3) of section 741.0305, Florida Statutes, is amended to read:

741.0305 Marriage fee reduction for completion of premarital preparation course.—

(3)(a) All individuals electing to participate in a premarital preparation course shall choose from the following list of qualified instructors:

1. A psychologist licensed under chapter 490.

2. A clinical social worker licensed under chapter 491.

3. A marriage and family therapist licensed under chapter 491.

4. A mental health counselor licensed under chapter 491.

5. An official representative of a religious institution which is recognized under s. 496.404 ~~s. 496.404(23)~~, if the representative has relevant training.

6. Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses. Each judicial circuit may establish a roster of area course providers, including those who offer the course on a sliding fee scale or for free.

Section 5. For the purpose of incorporating the amendment made by this act to section 496.415, Florida Statutes, in a reference thereto, section 496.416, Florida Statutes, is reenacted to read:

496.416 Violation as deceptive or unfair trade practice.—Any person who commits an act or practice that violates any provision of ss. 496.401-496.424 commits an unfair or deceptive act or practice or unfair method of competition in violation of chapter 501, part II, and is subject to the penalties and remedies provided for such violation.

Section 6. For the purpose of incorporating the amendment made by this act to section 496.415, Florida Statutes, in a reference thereto, section 496.417, Florida Statutes, is reenacted to read:

496.417 Criminal penalties.—Except as otherwise provided in ss. 496.401-496.424, and in addition to any administrative or civil penalties, any person who willfully and knowingly violates ss. 496.401-496.424 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For a second or subsequent conviction, such violation constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1335 Department of Business and Professional Regulation
SPONSOR(S): Maggard
TIED BILLS: **IDEN./SIM. BILLS:** SB 1544

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

The Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating various businesses and professions throughout the state, including tobacco; nicotine products; alcohol; drugs, devices, and cosmetics; construction contractors; asbestos abatement; pilots; elevators; employee leasing companies; certified public accountants (CPAs); real estate; barbers; cosmetologists; and mobile homes.

The bill:

- Requires applicants and licensees for the following to create and maintain an online account for communication with DBPR:
  - Tobacco and nicotine product industry,
  - Alcohol industry,
  - CPAs and firms, and
  - Elevator industry.
- Increases the amount of the required surety bond that a tobacco product distributor must maintain with DBPR to $25,000, from $1,000.
- Allows DBPR to determine additional surety amounts or reduce surety amounts for tobacco products distributors based on certain factors.
- Dissolves and replaces with DBPR-run programs:
  - The Florida Mobile Home Relocation Corporation, and
  - The Board of Employee Leasing Companies.
- Increases caps on claims and lifetime limits for the Florida Homeowners' Construction Recovery Fund.
- Removes an obsolete provision from the barber and cosmetology practice acts.
- Removes certain mentorship and eligibility requirements for pilots.
- Removes a time limit on using a real estate course completion for licensure.
- Removes certain financial responsibility proof requirements for asbestos abatement professionals.
- Allows local construction contractor licensing agencies to recommend restitution as a disciplinary action.
- Allows applicants to be a designated representative for certain pharmaceutical wholesalers to prove experience in two new ways.

The bill has a negative, indeterminate fiscal impact on state government and no impact on local governments. *See* Fiscal Impact & Economic Impact Statement.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Department of Business and Professional Regulation

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through the following divisions:

- The Division of Administration,
- The Division of Alcoholic Beverages and Tobacco (ABT),
- The Division of Certified Public Accounting (DCPA),
- The Division of Drugs, Devices, and Cosmetics (DDC),
- The Division of Florida Condominiums, Timeshares, and Mobile Homes (FCTMH),
- The Division of Hotels and Restaurants (H&R),
- The Division of Pari-mutuel Wagering,
- The Division of Professions (Professions),
- The Division of Real Estate (DRE),
- The Division of Regulation,
- The Division of Technology, and
- The Division of Service Operations.[1]

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.[2]

DCPA is responsible for the regulation of certified public accountants and accounting firms in the state.[3]

DRE 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.[4]

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[1] S. 20.165, F.S.
[2] Florida Department of Business and Professional Regulation, *Division of Professions*, http://www.myfloridalicense.com/DBPR/division-of-professions/ (last visited Jan. 21, 2024).
[3] S. 473.3035, F.S.; Florida Department of Business and Professional Regulation, *Certified Public Accounting*, Certified Public Accounting – MyFloridaLicense.com (last visited Jan. 21, 2024).
[4] S. 475.021, F.S.

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.[5] To ensure compliance with applicable laws and rules by those professions and related businesses, the division investigates complaints, utilizes compliance mechanisms, and performs inspections.[6]

DDC protects the health, safety, and welfare of Floridians from adulterated, contaminated, and misbranded drugs, drug ingredients, and cosmetics by enforcing Part I of ch. 499, F.S., the Florida Drug and Cosmetic Act (FDCA).[7] The Act conforms to United Stated Food and Drug Administration (FDA) drug laws and regulations and authorizes DBPR to issue permits to Florida drug manufacturers and wholesale distributors and register drugs manufactured, packaged, repackaged, labeled, or relabeled in Florida.[8]

ABT regulates the manufacture, distribution, sale, and service of alcoholic beverages and tobacco products in Florida, including:

- receipt and processing of license applications;
- collection and auditing of taxes, surcharges, and fees paid by licensees; and
- enforcement of the laws and regulations governing the sale of alcoholic beverages and tobacco products.[9]

FCTMH provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure.[10] FCTMH has limited regulatory authority over the following business entities and individuals:[11]

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (jurisdiction is limited to arbitration of election and recall disputes).

H&R licenses, inspects and regulates public lodging and food service establishments in Florida. The division also licenses and regulates elevators, escalators and other vertical conveyance devices.[12]

Tobacco and Nicotine Products – Current Situation

ABT is responsible for the regulation of tobacco products under ch. 210, F.S., which sets out tax requirements specific to cigarettes and tobacco products, and ch. 569, F.S., which sets out requirements for tobacco sales.[13]

A person, firm, association, or corporation must obtain a permit from ABT to function as any of the following in Florida:

- Retail tobacco products dealer,[14]
- Cigarette manufacturer,[15]
- Cigarette wholesale dealer,[16]

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[5] Except the Board of Architecture and Interior Design, and the Florida Board of Professional Engineers.
[6] Florida Department of Business and Professional Regulation, *Division of Regulation*, http://www.myfloridalicense.com/DBPR/division-of-regulation/ (last visited Jan. 21, 2024).
[7] Florida Department of Business and Professional Regulation, *Division of Drugs, Devices, and Cosmetics,* available at http://www.myfloridalicense.com/DBPR/drugs-devices-and-cosmetics/ (last visited Mar. 19, 2021).
[8] S. 499.01, F.S.
[9] Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, http://www.myfloridalicense.com/DBPR/alcoholic-beverages-and-tobacco/ (last visited Mar. 19, 2021).
[10] Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/, (last visited Mar. 19, 2021).
[11] *Id*.
[12] Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, http://www.myfloridalicense.com/DBPR/hotels-restaurants/ (last visited Mar. 19, 2021).
[13] S. 561.02, F.S.
[14] S. 569.003, F.S.
[15] Ss. 210.01(21) and 210.15, F.S.

- Cigarette distributing agent,[17]
- Cigarette importer,[18]
- Cigarette exporter,[19] or
- Cigar wholesale dealer,[20]
- Tobacco wholesale dealer/distributor,[21] or
- Retail nicotine products dealer.[22]

"Cigarettes" are defined in s. 210.01(1), F.S., relating to state taxes on cigarettes, as "any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient." This definition does not include cigars.

"Tobacco products" are defined in s. 210.25(11), F.S., relating to state taxes on tobacco products other than cigarettes or cigars, as "loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing."

"Nicotine product" means any product that contains nicotine, including liquid nicotine, which is intended for human consumption, whether inhaled, chewed, absorbed, dissolved, or ingested by any means. The term also includes any nicotine dispensing device. The term does not include a:
- Tobacco product.
- Product regulated as a drug or device by the FDA under Chapter V of the FDCA; or
- Product that contains incidental nicotine.[23]

There is currently no requirement that a tobacco or nicotine products licensee must apply using or maintain an online account with ABT.

Tobacco and Nicotine Product Online Account – Effect of the Bill

The bill requires each person or entity licensed or permitted or applying for a cigarette, tobacco product, nicotine, or cigar license or permit within Florida to:
- Create and maintain an account with ABT's online system, and
- Provide an e-mail address to ABT to function as the primary means of contact for all communication by ABT to the licensee, permittee, or applicant.
- maintaining accurate contact information on file with ABT.

The bill also provides that:
- A person or an entity seeking such a license or permit must apply using forms furnished by ABT which are filed through ABT's online system before commencing operations.
- ABT may not process an application for a license or permit unless the application is submitted through ABT's online system.

Surety Bond for Tobacco Product Distributor's License – Current Situation

Each application for a tobacco product distributor's license must be accompanied by a corporate surety bond issued by a surety company authorized to do business in Florida, conditioned for the payment

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[16] Ss. 210.01(6) and 210.15(1), F.S.
[17] Ss. 210.01(14) and 210.15(1), F.S.
[18] Ss. 210.01(20) and 210.15(1), F.S.
[19] Ss. 210.01(17) and 210.15(1), F.S.
[20] S. 210.65(2), F.S.
[2121] Ss. 210.25(5) and 210.40, F.S.
[22] S. 569.31(6), F.S.
[23] S. 569.31(4), F.S.

when due of all taxes, penalties, and accrued interest which may be due the state. The bond must be in the sum of $1,000 and in a form prescribed by ABT.

Whenever ABT finds that the bond given by a licensee is inadequate to fully protect the state, ABT must require an additional bond in such amount as is deemed sufficient. A separate application for a license must be made for each place of business at which a distributor proposes to engage in business as a distributor, but an applicant may provide one bond in an amount determined by ABT for all applications made by the distributor.[24]

Surety Bond for Tobacco Product Distributor's License – Effect of the Bill

The bill increases the amount of the required tobacco product distributor corporate surety bond to $25,000, from $1,000.

The bill requires ABT to review the amount of the corporate surety bond on a semiannual basis to ensure that the bond amount is adequate to protect the state. ABT may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount. The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state.

The bill requires that a corporate surety bond, with the sum determined by ABT, is required for renewal of a distributor's license.

The bill allows ABT to prescribe by rule increases in the corporate surety bond amounts required as a condition of licensure.

The bill allows ABT to reduce the amount of a corporate surety bond upon a distributor's showing of **good cause**. In determining the amount of the surety bond:

- "Good cause" means a consistent pattern of **responsible financial behavior** by the distributor over a period of at least the preceding 4 years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding 4 years.
- "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding 4 years.

The bill prohibits ABT from reducing a corporate surety bond amount when a licensee:

- Is in default of any tax liabilities, penalties, or interest due to the state;
- Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;
- Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or
- Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

The bill provides that such a matter is "fully resolved" if the criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

The bill requires ABT to notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date on which the distributor's audited tax assessments become final.

[24] S. 210.40, F.S.

The bill provides that a decision by ABT on the amount of the surety bond is not subject to review under s. 120.60, F.S., including judicial review.[25]

The bill allows ABT to adopt rules related to surety bonds.

Alcohol – Current Situation

In Florida, the Beverage Law[26] regulates the manufacture, distribution, and sale of wine, beer, and liquor by licensed or permitted manufacturers, distributors, and vendors.[27]

Any person or entity currently licensed or permitted by ABT must provide an electronic mail address to function as the primary contact for all communication by ABT to the licensee or permittee. Licensees and permittees are responsible for maintaining accurate contact information on file with ABT.[28] However, there is no similar requirement for applicants.

Alcohol – Effect of the Bill

The bill requires all applicants for an alcohol license or permit to:

- Provide an electronic mail address to function as the primary means of contact for all communication by ABT,
- Maintain accurate contact information on file with ABT, and
- Apply using forms prepared by ABT and filed through ABT's online system before engaging in any business for which a license or permit is required.

The bill provides that ABT may not process an application for an alcohol license unless the application is submitted through the ABT's online system.

Elevators – Current Situation

Chapter 399, F.S., regulates elevator safety procedures, and is enforced by H&R. H&R issues the following:[29]

- Permits to install, relocate, or alter elevators,
- Certificates of operation for elevators, and
- Licenses for:
    - Elevator companies,
    - Elevator technicians, and
    - Elevator inspectors.

Currently, applicants for examination or licensure do not have to create or maintain an online account with DBPR.

Elevators – Effect of the Bill

The bill requires persons who have or are applying for an elevator license, certificate, or permit to:

- Create and maintain an online account with H&R,
- Provide an e-mail address to the division to function as the primary means of contact for all communication from H&R, and
- Maintain accurate contact information on file with H&R.

The bill allows H&R to adopt rules to implement this provision.

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[25] Chapter 120, F.S., the Administrative Procedure Act (APA), provides uniform procedures for state agencies, including the conduct of rulemaking, implementing disciplinary actions, and the granting and denial of license applications. Section 120.60, F.S., provides the process for the granting or denial of license applications upon receipt of a license application, including judicial review of a decision.
[26] Section 561.01(6), F.S., provides that the “The Beverage Law” includes chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[27] *See* s. 561.14, F.S.
[28] S. 561.17(5), F.S.
[29] S. 399.01, F.S.

Certified Public Accountants – Current Situation

The Florida Board of Accounting under DCPA is responsible for regulating and licensing certified public accountants (CPA) and accounting firms in Florida. [30]

Currently, applicants for examination or licensure do not have to create or maintain an online account with DBPR.

Certified Public Accountants – Effect of the Bill

A person applying to the department to take the licensure examination, or for licensure as a CPA or firm, must:

- Create and maintain an online account with DBPR,
- Provide an e-mail address to function as the primary means of contact for all communication to the applicant from DBPR,
- Maintain accurate contact information on file with DBPR, and
- Submit any change in the applicant's e-mail address or home address within 30 days after any contact information changes. All changes must be submitted through DBPR's online system.

Pilots – Current Situation

Chapter 310, F.S., regulates the piloting of vessels utilizing the navigable waters of Florida in order that such resources, the environment, life, and property may be protected to the fullest extent possible.[31] The Board of Pilot Commissioners is responsible for licensing and regulating pilots and determines the number of pilots in a port based on the supply and demand for piloting services and the public interest in maintaining efficient and safe piloting services.[32]

"Pilot" means a licensed state pilot or a certificated deputy pilot.[33]

The pilot or pilots in a port must train and compensate all deputy pilots in that port and establish a competency-based mentor program by which minority persons[34] may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. DBPR must provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons who:

- Have participated in each mentor program,
- Are licensed state pilots or certificated deputy pilots, and
- Have applied for state pilot licensure or deputy pilot certification.[35]

When DBPR examines applications for a certificate as deputy pilot, and finds them qualified, DBPR must certify all such applicants as qualified, provided that not more than five persons who passed the examination are certified for each declared opening.[36]

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[30] S. 473.303, F.S.
[31] S. 310.001, F.S.
[32] S. 310.061, F.S.
[33] S. 310.002(2), F.S.
[34] As defined in s. 288.703, which means a lawful, permanent resident of Florida who is:
• An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin.
• A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race.
• An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778.
• A Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services.
• An American woman.
[35] S. 310.0015(3)(d), F.S.
[36] S. 310.081(2), F.S.

If more than five applicants per opening pass the examination, the persons having the persons having the highest scores must be certified as qualified up to the number of openings times five. DBPR must give consideration to the minority and female status of applicants when qualifying deputy pilots, in the interest of ensuring diversification within the state piloting profession. DBPR must appoint and certificate such number of deputy pilots from those applicants deemed qualified as in the discretion of the board are required in the respective ports of the state.[37]

Pilots – Effect of the Bill

The bill removes the requirement for a competency-based mentor program for minority persons and the related report.

The bill removes the requirement that DBPR must consider the minority and female status of applicants when qualifying deputy pilots.

Employee Leasing Companies – Current Situation

Generally, "employee leasing" means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.[38]

The Board of Employee Leasing Companies licenses and regulates employee leasing companies[39] and consists of seven members to be appointed by the Governor and confirmed by the Senate, as follows:[40]

- Five members of the board must be chosen from licensed individuals already engaged in the employee leasing industry.
- Two board members must be Florida residents and must not be, or ever have been, connected with the business of employee leasing.[41]

Employee Leasing Companies – Effect of the Bill

The bill dissolves the Board of Employee Leasing Companies, and provides that employee leasing companies will be regulated as a DBPR-run licensing program.

The bill makes conforming changes.

Real Estate – Current Situation

The Florida Real Estate Commission, within the DRE, administers and enforces real estate licensing laws applicable to real estate brokers[42] and sales associates.[43]

"Broker" means, in pertinent part, a person who, for another, and for compensation or valuable consideration directly or indirectly paid or promised, expressly or implied, or with an intent to collect or receive a compensation or valuable consideration therefore, appraises, auctions, sells, exchanges, buys, rents any real property or an interest in or concerning the same; or who advertises or hold s out to the public by any oral or printed solicitation or representation that she or he is engaged in such business.[44]

"Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of a broker.[45]

[37] *Id*.
[38] S. 468.520(4), F.S.
[39] S. 468.521, F.S.
[40] S. 468.521(1), F.S.
[41] S. 468.521(2), F.S.
[42] S. 475.01(1)(a), F.S.
[43] S. 475.01(1)(j), F.S.
[44] S. 475.01(1)(a), F.S.
[45] S. 475.01(1)(j), F.S.

FREC must certify for licensure any applicant who satisfies the education, character, and examination requirements. An application for licensure expires 2 years after the date received if the applicant does not pass the appropriate examination within that time. Additionally, if an applicant does not pass the licensing examination within 2 years after the successful course completion date, the applicant's successful course completion may not be used for licensure.[46]

Real Estate – Effect of the Bill

The bill allows an applicant to use any completion of a required course for licensure, regardless if the applicant has not passed the examination within a certain timeframe.

Barbers and Cosmetologists – Current Situation

The Barbers' Board under Ch. 476, F.S., governs the regulation and licensing of barbers and barbershops in the state. A barber license is required to perform barbering services.[47] Barbering services include hair services and limited skin care services when done for compensation, but not for medical purposes.[48]

The Board of Cosmetology under Ch. 477, F.S., governs the licensing and regulation of cosmetologists, nail specialists, facial specialists, full specialists, and related salons in the state. A cosmetology license or a specialty registration is required to perform cosmetology services. Cosmetology services include hair services, nail services, and skin care services when done for compensation, but not for medical purposes.[49]

Both practice acts contain conflicting provisions related to licensure by endorsement, where one provision requires licensure in another jurisdiction for a year to qualify,[50] and another allows a license by endorsement regardless of how long the applicant has held the license in another jurisdiction.[51]

Barbers and Cosmetologists – Effect of the Bill

The bill removes a conflicting provision for licensure by endorsement, and allows barbers and cosmetologists licensed in another jurisdiction to qualify for a license by endorsement regardless of how long the applicant has held the license in another jurisdiction.

Asbestos Consultants and Contractors – Current Situation

Asbestos consultants and contractors are regulated by ch. 469, F.S., and licensed by the Asbestos Licensing Unit in DBPR. Florida licensing standards must also comply with the U.S. Environmental Protection Agency's Asbestos Model Accreditation Plan for States (MAP), which includes mandatory nationwide standards for testing and education.[52]

"Asbestos abatement" means the removal, encapsulation, enclosure, or disposal of asbestos.[53]

An asbestos consultant may:
- Conduct an asbestos survey,
- Develop an operation and maintenance plan,
- Monitor and evaluate asbestos abatement, and
- Prepare asbestos abatement specifications.[54]

[46] S. 475.181(2), F.S.
[47] S. 476.144(1), F.S.
[48] S. 476.034(2), F.S.
[49] S. 477.013(4), F.S.
[50] Ss. 476.114(2)(c)1. and 477.019(2)(c)1., F.S.
[51] Ss. 476.144(5) and 477.019(6), F.S.
[52] 40 C.F.R. § 763 Appendix C to Subpart E.
[53] S. 469.001(1), F.S.
[54] S. 469.003, F.S.

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.[55]

In addition to proving certain experience, education, and completion of examination, an applicant for licensure as either an asbestos consultant or contractor also must provide evidence of financial responsibility. Criteria used by DBPR to determine financial responsibility must include, but is not be limited to, credit history and limits of bondability and credit.[56]

Asbestos Consultants and Contractors – Effect of the Bill

The bill removes the requirement for DBPR to consider an applicant's limits of bondability when determining an asbestos consultant or contractor applicant's financial responsibility.

Designated Representatives – Current Situation

DDC has broad authority to inspect and discipline DDC permittees for violations of state or federal laws and regulations, which can include seizure and condemnation of adulterated or misbranded drugs or suspension or revocation of a permit.[57]

Each establishment that is issued a permit as a prescription drug wholesale distributor or an out-of-state prescription drug wholesale distributor must designate in writing to DBPR at least one natural person to serve as the designated representative of the wholesale distributor. Such person must have an active certification as a designated representative from DBPR.[58]

A designated representative:
- Must be actively involved in and aware of the actual daily operation of the wholesale distributor.
- Must be employed full time in a managerial position by the wholesale distributor.
- Must be physically present at the establishment during normal business hours, except for time periods when absent due to illness, family illness or death, scheduled vacation, or other authorized absence.
- May serve as a designated representative for only one wholesale distributor at any one time.[59]

To be certified as a designated representative, a natural person must:
- Submit an application and pay the appropriate fees.
- Be at least 18 years of age.
- Have at least 2 years of verifiable full-time:
    - Work experience in a pharmacy licensed in Florida or another state, where the person's responsibilities included, but were not limited to, recordkeeping for prescription drugs;
    - Managerial experience with a prescription drug wholesale distributor licensed in Florida or in another state; or
    - Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs.
- Pass the required examination.
- Provide DBPR with a personal information statement and fingerprints.[60]

Designated Representatives – Effect of the Bill

The bill adds two additional ways that an applicant may demonstrate work experience in order to obtain a license as a designated representative, as follows:

[55] S. 469.003(3), F.S.
[56] S. 469.005-.006, F.S.
[57] Ss. 499.051, 499.062, 499.065. 499.066, 499.0661, and 499.067, F.S.
[58] S. 499.012(15)(a), F.S.
[59] S. 499.012(15)(d), F.S.
[60] S. 499.012(15)(b), F.S.

- Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; and
- Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

Local Construction Contractor Licensing – Current Situation

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 is responsible for licensing statewide construction contractors and regulating the construction industry in Florida under part I of Ch. 489, F.S,[61] and is divided into two divisions with separate jurisdictions:

- Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.[62]
- Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.[63]

"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.[64]

"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.[65]

"Registered contractors" are individuals licensed at the local level 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.[66] Registered contractors must register the local license with the CILB.

The local governing body of a county or municipality, or its local enforcement body, is authorized to enforce the provisions of part I of Ch. 489, F.S., as well as its local ordinances against locally licensed or registered contractors, as appropriate. The local jurisdiction enforcement body may conduct disciplinary proceedings against a locally licensed or registered contractor and may:

- Require restitution,
- Impose a suspension or revocation of the local license,
- Impose a fine not to exceed $5,000, or
- Impose a combination thereof.[67]

[61] *See* s. 489.107, F.S.
[62] *See* s. 489.105(3)(a)-(c), F.S.
[63] S. 489.105(3) (d) - (q), F.S.
[64] S. 489.105(8), F.S.
[65] S. 489.105(3)(q), F.S.
[66] S. 489.105(10), F.S.
[67] S. 489.131(7)(b), F.S.

In addition to any disciplinary action the local jurisdiction enforcement body may take against the local licensee, the local jurisdiction enforcement body must issue a recommended penalty to the CILB for the CILB to take additional action. This recommended penalty may include a recommendation for:

- No further action,
- Suspension,
- Revocation,
- Restriction of the registration,
- A fine to be levied by CILB, or
- A combination thereof.[68]

Currently, a local jurisdiction enforcement body may not recommend that the CILB require restitution as an action against the local contractor.

Local Construction Contractor Licensing – Effect of the Bill

The bill allows a local jurisdiction enforcement body to recommend that the CILB require restitution from the local contractor.

The bill requires that the recommended penalty must specify the practice act violations upon which the recommendation is based.

Florida Homeowners' Construction Recovery Fund – Current Situation

The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed contractors. Covered losses include financial mismanagement or misconduct, project abandonment, or fraudulent statement of a contractor or related party.[69] A homeowner must have engaged a contractor for construction or improvement of the homeowner's Florida residence, and the damage must have been caused by a Division I licensee or a Division II licensee.[70]

Claims are filed with DBPR, who reviews for completeness and statutory eligibility. DBPR then presents the claim to the Construction Industry Licensing Board (CILB) for review.[71]

Current law requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.[72]

The maximum amounts payable for recovery fund claims and the total lifetime aggregate limits are set forth in s. 489.143, F.S,[73] as follows:

- Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, recovery fund claims are limited to a $50,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of $500,000 for each Division I licensee.
- Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, (the date that claims against Division II licensees were first authorized to be filed), recovery fund claims are limited to a $15,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of $150,000 for each Division II licensee.

[68] S. 489.131(7)(c), F.S.
[69] *See* ss. 489.140-489.144, F.S.
[70] Section 489.1402, F.S., defines the term "residence" to mean "a single-family residence, an individual residential condominium or cooperative unit, or a residential building containing not more than two residential units in which the owner contracting for the improvement is residing or will reside 6 months or more each calendar year upon completion of the improvement."
[71] S. 489.1401(2), F.S.
[72] S. 468.631, F.S.
[73] For recovery fund claims for contracts entered into before July 1, 2004, *see* s. 489.143(6), F.S.

Claims awarded to a claimant by the CILB are paid in the order that they are filed, up to the lifetime aggregate limits for each transaction and licensee, and to the limits of amounts appropriated to pay claims against the recovery fund.[74] Payments may not exceed the total claim limits or lifetime aggregate limits.[75]

As of July 31, 2023, the overall Recovery Fund balance was $23,235,064.00. For fiscal years 20/21, 21/22, and 22/23, the average amount of revenue going into the fund from the surcharge per fiscal year was $6,188,495.00, and the average amount of claims awarded was $2,882,184 per fiscal year. However, between FY 20/21 and FY 22/23, the number of claims presented and awarded each year more than doubled. In FY 22/23, **232** claims were awarded for a total amount of $4,449,552.00. Of the 232 claims, 125 were against Division I contractors, and 107 were against Division II contractors.[76]

Florida Homeowners' Construction Recovery Fund – Effect of the Bill

The bill increase the maximum amounts payable for recovery fund claims and the total lifetime aggregate limits as follows:

- Beginning January 1, 2025, for each Division I contract entered into after July 1, 2024, recovery fund claims are limited to a $100,000 maximum payment for each Division I claim, with a total lifetime aggregate limit of $2 million for each Division I licensee.
- Beginning January 1, 2025, for each Division II contract entered into on or after July 1, 2024, recovery fund claims are limited to a $30,000 maximum payment for each Division II claim, with a total lifetime aggregate limit of $600,000 for each Division II licensee.

Florida Mobile Home Relocation Corporation – Current Situation

Chapter 723, F.S., the "Florida Mobile Home Act," addresses the unique relationship between a mobile home owner and a mobile home park owner.[77] The provisions in ch. 723, F.S., apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[78]

Chapter 723.003, F.S., provides the following relevant definitions:

- "Mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.[79]
- "Mobile home owner," "mobile homeowner," "home owner," or "homeowner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.[80]

In 2001, the Legislature created the Florida Mobile Home Relocation Corporation (corporation) in s. 723.0611, F.S., to provide for the collection and payment of relocation expenses for mobile home owners displaced by a change in land use for a mobile home park. [81] Specifically, s. 723.0612, F.S., provides for relocation expenses to be paid from the corporation to the mobile home owner from the Florida Mobile Home Relocation Trust Fund.[82]

The amount of the payment is the actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or $3,000 for a single-section mobile home or $6,000 for a multi-section mobile home, whichever is less.[83]

[74] S. 489.143(7), F.S.
[75] *Id*.
[76] DBPR, Agency Analysis of 2024 House Bill 1335, p.3 (Jan. 8, 2024).
[77] S. 723.004, F.S.
[78] S. 723.002(1), F.S.
[79] S. 723.003(12), F.S.
[80] S. 723.003(11), F.S.
[81] Ch. 2001-227, L.O.F.
[82] Ss. 723.007(2), 723.0612(2) and (7), F.S.
[83] S. 723.0612(1), F.S.

In lieu of collecting moving expenses from the corporation, a mobile home owner may elect to abandon the home and collect payment from the corporation in the amount of $1,375 for a single section mobile home and $2,750 for a multi-section mobile home.[84] Upon election of abandonment, the mobile home owner must deliver to the park owner an endorsed title with a valid release of all liens on the title to the mobile home.[85] The mobile home park owner is required to pay the corporation an amount equal to the amount the mobile home owner is entitled to receive from the corporation.[86]

The mobile home park owner is not required to make the payments, nor is the mobile home owner entitled to compensation, if: [87]

- The mobile home owner is moved to another space in the park or to another mobile home park at the park owner's expense;
- The mobile home owner notified the mobile home park owner, before the notice of a change in land use, that he or she was vacating the premises;
- A mobile home owner abandons the home in the park; or
- The mobile home owner had an eviction action for nonpayment of lot rental amount filed against him or her prior to the mailing date of the change in the use of land.

The corporation is administered by a board of directors made up of 6 members who are each appointed by the Secretary of DBPR from a list of nominees:[88]

- The Federation of Manufactured Home Owners of Florida submits nominees for 3 board members. This organization is comprised of residents who reside in mobile home parks.
- The Florida Manufactured Housing Association submits nominees for 3 board members. This organization is comprised of park owners and operators.

The board has historically had an executive director who managed the administrative and financial transactions of the corporation, as well as performed other necessary functions. However, as of the end of June 2023, the corporation is being managed by a management company in Tallahassee.[89]

The Mobile Home Relocation Trust Fund has a current balance of $5,671,376.86. An accounting of the fund is as follows:[90]

Revenue to the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Park Owner Fees	$54,638	$134,581	$26,625	$2,750	$16,500
DHSMV Surcharge	$438,631	$378,405	$406,433	$412,814	$401,807
FCTMH Surcharge	$282,885	$283,353	$282,390	$294,231	$282,455
Interest	$74,630	$115,712	$67,082	$33,827	$78,673
Total Revenue	$850,784	$912,051	$782,530	$743,622	$779,435

Expenditures from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Transferred to corporation	$338,450	$422,000	$357,086	$284,573	$241,592
Service Charge to General Revenue	$65,960	$74,671	$64,334	$56,773	$61,901
Interest Assessment	$3,598	$4,241	$4,655	$4,770	$5,358
Total Expenditures	$408,008	$500,912	$426,075	$346,116	$308,788

[84] S. 723.0612(7), F.S.
[85] *Id.*
[86] S. 723.0612(7), F.S.
[87] Ss. 723.0612(2) and (7), F.S.
[88] S. 723.0611(1), F.S.
[89] DBPR, *supra* note 76, at 5.
[90] Email from Chris Kingry, Deputy Legislative Affairs Director, DBPR, RE: Florida Mobile Home Relocation Trust Fund (Jan. 30, 2024),

Payouts from the fund for the past five fiscal years:

	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Total Paid Out	$68,250	$141,500	$9,875	$4,125	$29,125
Number of Payouts	30	61	4	2	16

Florida Mobile Home Relocation Corporation – Effect of the Bill

The bill dissolves the corporation and requires the FTCMH to take over its duties of running the Florida Mobile Home Relocation Program.

The bill conforms several related provisions to replace references to the corporation with FTCMH.

Appropriation from the Florida Mobile Home Relocation Trust Fund

The bill appropriates, for the 2024-2025 fiscal year, the sum of $315,692 in recurring funds from the Florida Mobile Home Relocation Trust Fund to DBPR for the purpose of implementing the bill.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 210.15, F.S.; relating to online account requirements for tobacco licensees.
Section 2: Creates s. 210.32, F.S.; relating to online account requirements for tobacco licensees.
Section 3: Amends s. 210.40, F.S.; relating to surety bond requirements for certain tobacco licensees.
Section 4: Amends s. 310.0015, F.S.; relating to a mentor program to become a deputy pilot.
Section 5: Amends s. 310.081, F.S.; relating to consideration of certain factors in licensing deputy pilots.
Section 6: Creates s. 399.18, F.S.; relating to online account requirements for elevator licensees.
Section 7: Creates s. 468.519, F.S.; creating the employee leasing licensing program.
Section 8: Repeals s. 468.521, F.S.; dissolving the Board of Employee Leasing Companies.
Section 9: Amends s. 469.006, F.S.; relating to requirements for asbestos abatement licensing.
Section 10: Amends s. 473.306, F.S.; relating to online account requirements for CPA applicants.
Section 11: Amends s. 473.308, F.S.; relating to online account requirements for CPA firm applicants.
Section 12: Amends s. 475.181, F.S.; removing an examination expiration for certain real estate license applicants.
Section 13: Amends s. 476.114, F.S.; removing a superfluous provision related to barber licenses.
Section 14: Amends s. 477.019, F.S.; removing a superfluous provision related to cosmetology licenses.
Section 15: Amends s. 489.131, F.S.; relating to disciplinary actions available to local governments for construction licensing.
Section 16: Amends s. 489.143, F.S.; increasing thresholds for the Florida Homeowners' Construction Recovery Fund.
Section 17: Amends s. 499.012, F.S.; relating to experience requirements for designated representatives of certain prescription drug wholesale distributors.
Section 18: Amends s. 561.17, F.S.; relating to online account requirements for alcohol licensees.
Section 19: Amends s. 569.00256, F.S.; relating to online account requirements for tobacco licensees.
Section 20: Amends s. 569.3156, F.S.; relating to online account requirements for nicotine products licensees.
Section 21: Amends s. 723.061, F.S.; conforming a provision.
Section 22: Repeals s. 723.0611, F.S.; dissolving the Florida Mobile Home Relocation Corporation.
Section 23: Amends s. 723.06115, F.S.; requiring FCTMH to administer the Florida Mobile Home Relocation Trust Fund.
Section 24: Amends s. 723.06116, F.S.; conforming a provision.
Section 25: Amends s. 723.0612, F.S.; conforming a provision.

Section 26: Amends s. 20.165, F.S.; conforming a provision.
Section 27: Amends s. 210.16, F.S.; conforming a provision.
Section 28: Amends s. 212.08, F.S.; conforming a provision.
Section 29: Amends s. 440.02, F.S.; conforming a provision.
Section 30: Amends s. 448.26, F.S.; conforming a provision
Section 31: Amends s. 468.520, F.S.; conforming a provision.
Section 32: Amends s. 468.522, F.S.; conforming a provision.
Section 33: Amends s. 468.524, F.S.; conforming a provision.
Section 34: Amends s. 468.5245, F.S.; conforming a provision.
Section 35: Amends s. 468.525, F.S.; conforming a provision
Section 36: Amends s. 468.526, F.S.; conforming a provision.
Section 37: Amends s. 468.527, F.S.; conforming a provision.
Section 38: Amends s. 468.5275, F.S.; conforming a provision.
Section 39: Amends s. 468.529, F.S.; conforming a provision.
Section 40: Amends s. 468.530, F.S.; conforming a provision.
Section 41: Amends s. 468.531, F.S.; conforming a provision.
Section 42: Amends s. 468.532, F.S.; conforming a provision.
Section 43: Amends s. 476.144, F.S.; conforming a provision.
Section 44: Amends s. 627.192, F.S.; conforming a provision.
Section 45: Reenacts s. 723.061, F.S.
Section 46: Reenacts s. 48.184, F.S.
Section 47: Reenacts s. 723.031, F.S.
Section 48: Reenacts s. 723.032, F.S.
Section 49: Reenacts s. 723.085, F.S.
Section 50: Reenacts s. 320.08015, F.S.
Section 51: Provides an appropriation from the Mobile Home Relocation Trust Fund to DBPR.
Section 52: 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:

By increasing the aggregate cap per licensee and the per claim cap for each contract, the number of claimants who receive compensation from the Florida Homeowner's Construction Recovery Fund and the amount of compensation will increase.

Removing the bondability requirement for asbestos abatement professionals will reduce the cost to applicants, estimated to be $100 per applicant.[91]

D. FISCAL COMMENTS:

According to DBPR:

Since recovery fund claims under the Florida Homeowner's Construction Recovery Fund are required to be based on contracts for eligible work, and must be based on either a final order, judgment, or decree, any fiscal impact from the increase in the caps will likely not occur for at least a year, July 2025 at the earliest.[92]

Modifications to DBPR's licensing system, Versa: Regulation (VR), and online system, Versa: Online (VO), related to creating and maintaining online accounts and changes to licensure processes, are required:[93] These changes can be made using existing resources.

Eliminating the Board of Employee Leasing Companies will result in a reduction of expenditures pertaining to board travel, costs, etc. However, the reduction in expenditures will be offset by the need for a consultant to review employee leasing licensure applications.

By increasing the aggregate cap per licensee and the per-claim cap for each contract, and the number and amounts of Florida Homeowner's Construction Recovery Fund claims awarded will increase. However, the impact is indeterminate.

DBPR states that additional resources will be needed in FCTMH to administer the Florida Mobile Home Relocation Program - 4 FTE positions, $175,000 salary rate, and $315,992 of budget authority ($296,122 recurring and $19,750 nonrecurring).[94]

The bill appropriates, for the 2024-2025 fiscal year, the sum of $315,692 in recurring funds from the Florida Mobile Home Relocation Trust Fund to DBPR for the purpose of implementing the bill.

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:

DBPR will need to amend several rules related to requiring online accounts, dissolving the Board of Employee Leasing Companies, dissolving the Florida Mobile Home Relocation Corporation, and changing licensure requirements for asbestos abatement professionals.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[91] *Id*. at.10.
[92] *Id*. at 12.
[93] *Id*. at 10.
[94] *Id*.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Department of Business and Professional Regulation; amending ss. 210.15 and 210.32, F.S.; requiring persons or entities licensed or permitted by the department's Division of Alcoholic Beverages and Tobacco, or applying for such license or permit, to create and maintain an account with the division's online system and provide an e-mail address to the division; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; amending s. 210.40, F.S.; revising the amount of an initial corporate surety bond required as a condition of licensure as a tobacco product distributor; requiring the division to review corporate surety bond amounts on a specified basis; authorizing the division to increase a bond amount, subject to specified conditions; authorizing the division to adjust bond amounts by rule; authorizing the division to reduce a bond amount upon a showing of good cause; defining terms; requiring the division to notify distributors in writing if their corporate surety bond requirements change; providing applicability; prohibiting the division from reducing a bond amount under specified circumstances; authorizing the division to adopt

rules; amending s. 310.0015, F.S.; deleting a provision requiring a competency-based mentor program at ports; deleting a requirement that the department submit an annual report on the mentor program; amending s. 310.081, F.S.; deleting a requirement that the department consider certain characteristics for applicants for certification as a deputy pilot; making technical changes; creating s. 399.18, F.S.; requiring certain persons or entities certified or registered under the Elevator Safety Act, or applying for such certifications or registrations, to create and maintain an online account with the department's Division of Hotels and Restaurants and provide an e-mail address to the division; requiring such persons and entities to maintain the accuracy of their contact information; requiring the division to adopt rules; creating s. 468.519, F.S.; creating the employee leasing companies licensing program under the department; providing legislative intent; repealing s. 468.521, F.S., relating to the department's Board of Employee Leasing Companies; amending s. 469.006, F.S.; revising requirements for department rules governing evidence of financial responsibility of applicants seeking licensure as a business organization under ch. 469, F.S.; amending s. 473.306, F.S.; requiring

applicants for the accountancy licensure examination to create and maintain an online account with the department and provide an e-mail address; requiring applicants to maintain the accuracy of their contact information; requiring that address changes be submitted through the department's online system within a specified timeframe; conforming cross-references; amending s. 473.308, F.S.; requiring a person seeking licensure as a Florida certified public accountant, or a firm seeking to engage in public accountancy, to create and maintain an online account with the department and provide an e-mail address; requiring certified public accountants and accounting firms to maintain the accuracy of their contact information; requiring that address changes be submitted through the department's online system within a specified timeframe; amending s. 475.181, F.S.; revising conditions regarding issuance of a licensure under part I of ch. 475, F.S.; amending s. 476.114, F.S.; revising eligibility requirements for licensure as a barber; making technical changes; amending s. 477.019, F.S.; revising eligibility requirements for licensure by examination to practice cosmetology; amending s. 489.131, F.S.; revising the types of penalties that may be recommended by a local

jurisdiction enforcement body against a contractor; specifying requirements for any such recommended penalties; amending s. 489.143, F.S.; revising payment limitations for payments made from the department's Florida Homeowners' Construction Recovery Fund; amending s. 499.012, F.S.; revising requirements for certification as a designated representative of a prescription drug wholesale distributor; amending s. 561.17, F.S.; requiring persons or entities licensed or permitted by the Division of Alcoholic Beverages and Tobacco, or applying for such license or permit, to create and maintain an account with the division's online system; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; creating ss. 569.00256 and 569.3156, F.S.; requiring certain persons or entities licensed or permitted by the division, or applying for such a license or permit, to create and maintain an account with the division's online system; requiring licensees, permittees, and applicants to provide the division with an e-mail address and maintain accurate contact information; specifying application requirements; prohibiting the division from processing applications not submitted through the online system; amending s. 723.061, F.S.;

conforming provisions to changes made by the act; replacing the Florida Mobile Home Relocation Corporation with the Division of Florida Condominiums, Timeshares, and Mobile Homes with regard to a specified notice; repealing s. 723.0611, F.S., relating to the Florida Mobile Home Relocation Corporation; amending s. 723.06115, F.S.; replacing the Florida Mobile Home Relocation Corporation with the Division of Florida Condominiums, Timeshares, and Mobile Homes as the manager and administrator of the Florida Mobile Home Relocation Trust Fund; revising the uses of the trust fund; making conforming changes; amending s. 723.06116, F.S.; replacing the Florida Mobile Home Relocation Corporation with the Division of Florida Condominiums, Timeshares, and Mobile Homes with regard to payments made from mobile home park owners to the Mobile Home Relocation Trust Fund; amending s. 723.0612, F.S.; replacing the Florida Mobile Home Relocation Corporation with the Division of Florida Condominiums, Timeshares, and Mobile Homes with regard to relocation expenses to be paid to mobile home owners from the Mobile Home Relocation Trust Fund; making technical changes; conforming a cross-reference; amending ss. 20.165, 210.16, 212.08, 440.02, 448.26, 468.520, 468.522, 468.524, 468.5245,

468.525, 468.526, 468.527, 468.5275, 468.529, 468.530, 468.531, 468.532, 476.144, and 627.192, F.S.; conforming cross-references and provisions to changes made by the act; reenacting ss. 48.184(1), 723.004(5), 723.031(9), 723.032(1), and 723.085(2), F.S., relating to service of process for the removal of unknown parties in possession of mobile homes, legislative intent, mobile home lot rental agreements, prohibited or unenforceable provisions in mobile home lot rental agreements, and the rights of lienholders on mobile homes in rental mobile home parks, respectively, to incorporate the amendment made in s. 723.061, F.S., in references thereto; reenacting s. 320.08015(1), F.S., relating to license tax surcharges, to incorporate the amendment made in s. 723.06115, F.S., in a reference thereto; providing an appropriation; providing an effective date.

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

Section 1. Present paragraphs (a) through (h) of subsection (1) of section 210.15, Florida Statutes, are redesignated as paragraphs (b) through (i), respectively, and a new paragraph (a) is added to that subsection, to read:

210.15 Permits.—

(1)

(a) A person or an entity licensed or permitted by the division, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or permit under this part must apply using forms furnished by the division which are filed through the division's online system before commencing operations. The division may not process an application for a license or permit issued by the division under this part unless the application is submitted through the division's online system.

Section 2. Section 210.32, Florida Statutes, is created to read:

210.32 Account; online system.—A person or an entity licensed or permitted by the division, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information on file with the

division. A person or an entity seeking a license or a permit under this part must apply using forms furnished by the division which are filed through the division's online system before commencing operations. The division may not process an application for a license or permit issued by the division under this part unless the application is submitted through the division's online system.

Section 3. Section 210.40, Florida Statutes, is amended to read:

210.40 License fees; surety bond; application for each place of business.—

(1) Each application for a distributor's license must ~~shall~~ be accompanied by a fee of $25. The application must ~~shall~~ also be accompanied by a corporate surety bond issued by a surety company authorized to do business in this state, conditioned for the payment when due of all taxes, penalties, and accrued interest which may be due the state. The initial corporate surety bond shall be in the sum of $25,000 ~~$1,000~~ and in a form prescribed by the division.

(a) The division shall review the amount of a corporate surety bond on a semiannual basis to ensure that the bond amount is adequate to protect the state.

(b) The division may increase the corporate surety bond amount before renewing a distributor's license or after completing its semiannual review of the bond amount.

(c) The corporate surety bond amount may be increased to the sum of the distributor's highest month of final audited tax liabilities, penalties, and accrued interest which are due to the state.

(2) A corporate surety bond, with the sum determined by the division in accordance with paragraph (1)(c), is required for renewal of a distributor's license.

(3) The division may prescribe by rule increases in the corporate surety bond amounts required as a condition of licensure.

(4)(a) The division may reduce the amount of a corporate surety bond upon a distributor's showing of good cause. For purposes of this subsection, the term:

1. "Fully resolved" means that criminal or administrative charges or investigations have been definitively closed or dismissed, have resulted in an acquittal, or have otherwise ended in such a manner that no further legal or administrative actions relating to charges or investigations are pending against a licensee under applicable laws, rules, or regulations.

2. "Good cause" means a consistent pattern of responsible financial behavior by the distributor over a period of at least the preceding 4 years, and having the sum of the distributor's final audited tax liabilities, penalties, and interest be less than the amount of the distributor's corporate surety bond for every month for a period of at least the preceding 4 years.

3. "Responsible financial behavior" includes the timely and complete reporting and payment of all tax liabilities, penalties, and accrued interest due to the state for a period of at least the preceding 4 years.

(b) The division may not reduce a corporate surety bond amount when a licensee:

1. Is in default of any tax liabilities, penalties, or interest due to the state;

2. Is the subject of a pending criminal prosecution in any jurisdiction until such prosecution has been fully resolved;

3. Has pending administrative charges brought by an authorized regulatory body or agency which have not been fully resolved in accordance with applicable rules and procedures; or

4. Is under investigation by any administrative body or agency for potential criminal violations until any such investigation is completed and the findings of the investigation have been fully resolved in accordance with applicable law.

(5) The division shall notify a distributor in writing of any change in the distributor's corporate surety bond requirements by the date on which the distributor's audited tax assessments become final.

(6) The provisions of this section governing corporate surety bonds are not subject to s. 120.60 ~~Whenever it is the opinion of the division that the bond given by a licensee is inadequate in amount to fully protect the state, the division~~

~~shall require an additional bond in such amount as is deemed sufficient~~.

(7) A separate application for a license must ~~shall~~ be made for each place of business at which a distributor proposes to engage in business as a distributor under this part, but an applicant may provide one corporate surety bond in an amount determined by the division for all applications made by the distributor consistent with the requirements of this section.

(8) The division may adopt rules to administer this section.

Section 4. Paragraph (d) of subsection (3) of section 310.0015, Florida Statutes, is amended to read:

310.0015 Piloting regulation; general provisions.—

(3) The rate-setting process, the issuance of licenses only in numbers deemed necessary or prudent by the board, and other aspects of the economic regulation of piloting established in this chapter are intended to protect the public from the adverse effects of unrestricted competition which would result from an unlimited number of licensed pilots being allowed to market their services on the basis of lower prices rather than safety concerns. This system of regulation benefits and protects the public interest by maximizing safety, avoiding uneconomic duplication of capital expenses and facilities, and enhancing state regulatory oversight. The system seeks to provide pilots with reasonable revenues, taking into consideration the normal

uncertainties of vessel traffic and port usage, sufficient to maintain reliable, stable piloting operations. Pilots have certain restrictions and obligations under this system, including, but not limited to, the following:

(d)~~1.~~ The pilot or pilots in a port shall train and compensate all member deputy pilots in that port. Failure to train or compensate such deputy pilots constitutes ~~shall constitute~~ a ground for disciplinary action under s. 310.101. Nothing in this subsection may ~~shall~~ be deemed to create an agency or employment relationship between a pilot or deputy pilot and the pilot or pilots in a port.

~~2. The pilot or pilots in a port shall establish a competency-based mentor program by which minority persons as defined in s. 288.703 may acquire the skills for the professional preparation and education competency requirements of a licensed state pilot or certificated deputy pilot. The department shall provide the Governor, the President of the Senate, and the Speaker of the House of Representatives with a report each year on the number of minority persons as defined in s. 288.703 who have participated in each mentor program, who are licensed state pilots or certificated deputy pilots, and who have applied for state pilot licensure or deputy pilot certification.~~

Section 5. Subsection (2) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(2) The department shall similarly examine persons who file applications for certificate as deputy pilot, and, if upon examination to determine proficiency the department finds them qualified, the department must ~~shall~~ certify as qualified all applicants who pass the examination, provided that not more than five persons who passed the examination are certified for each declared opening. If more than five applicants per opening pass the examination, the persons having the highest scores must ~~shall~~ be certified as qualified up to the number of openings times five. ~~The department shall give consideration to the minority and female status of applicants when qualifying deputy pilots, in the interest of ensuring diversification within the state piloting profession.~~ The department shall appoint and certificate such number of deputy pilots from those applicants deemed qualified as in the discretion of the board are required in the respective ports of the state. A deputy pilot shall be authorized by the department to pilot vessels within the limits and specifications established by the licensed state pilots at the port where the deputy is appointed to serve.

Section 6. Section 399.18, Florida Statutes, is created to read:

399.18 Online services account.—

(1) A certified elevator inspector, certified elevator

technician, or registered elevator company; a person or entity seeking to become certified or registered as such; a person who has been issued an elevator certificate of competency; a person who is seeking such certificate; a person or entity who has been issued an elevator certificate of operation; and a person or entity who is seeking such a certificate must create and maintain an online account with the division and provide an e-mail address to the division to function as the primary means of contact for all communication from the division. Each person or entity is responsible for maintaining accurate contact information on file with the division.

(2) The division shall adopt rules to implement this section.

Section 7. Section 468.519, Florida Statutes, is created, and incorporated into part XI of chapter 468, Florida Statutes, to read:

468.519 Employee leasing companies licensing program; purpose.—

(1) There is created within the department the employee leasing companies licensing program.

(2) The Legislature finds it necessary in the interest of the public safety and welfare to ensure that consumers of employee leasing companies can rely on the competence and integrity of such companies through the licensing requirements of this part.

Section 8. Section 468.521, Florida Statutes, is repealed.

Section 9. Paragraph (c) of subsection (2) of section 469.006, Florida Statutes, is amended to read:

469.006 Licensure of business organizations; qualifying agents.—

(2)

(c) As a prerequisite to the issuance of a license under this section, the applicant shall submit the following:

1. An affidavit on a form provided by the department attesting that the applicant has obtained workers' compensation insurance as required by chapter 440, public liability insurance, and property damage insurance, in amounts determined by department rule. The department shall establish by rule a procedure to verify the accuracy of such affidavits based upon a random sample method.

2. Evidence of financial responsibility. The department shall adopt rules to determine financial responsibility which must ~~shall~~ specify grounds on which the department may deny licensure. Such criteria must ~~shall~~ include, but is not ~~be~~ limited to, credit history ~~and limits of bondability and credit~~.

Section 10. Section 473.306, Florida Statutes, is amended to read:

473.306 Examinations.—

(1) A person desiring to be licensed as a Florida certified public accountant shall apply to the department to

take the licensure examination.

(2) A person applying to the department to take the licensure examination must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication to the applicant from the department. Each applicant is responsible for maintaining accurate contact information on file with the department and must submit any change in the applicant's e-mail address or home address within 30 days after the change. All changes must be submitted through the department's online system.

(3) An applicant is entitled to take the licensure examination to practice in this state as a certified public accountant if:

(a) The applicant has completed 120 semester hours or 180 quarter hours from an accredited college or university with a concentration in accounting and business courses as specified by the board by rule; and

(b) The applicant shows that she or he has good moral character. For purposes of this paragraph, the term "good moral character" has the same meaning as provided in s. 473.308(7)(a) ~~s. 473.308(6)(a)~~. The board may refuse to allow an applicant to take the licensure examination for failure to satisfy this requirement if:

1. The board finds a reasonable relationship between the

lack of good moral character of the applicant and the professional responsibilities of a certified public accountant; and

2. The finding by the board of lack of good moral character is supported by competent substantial evidence.

If an applicant is found pursuant to this paragraph to be unqualified to take the licensure examination because of a lack of good moral character, the board shall furnish to the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the rights of the applicant to a rehearing and appeal.

(4) ~~(3)~~ The board shall have the authority to establish the standards for determining and shall determine:

(a) What constitutes a passing grade for each subject or part of the licensure examination;

(b) Which educational institutions, in addition to the universities in the State University System of Florida, shall be deemed to be accredited colleges or universities;

(c) What courses and number of hours constitute a major in accounting; and

(d) What courses and number of hours constitute additional accounting courses acceptable under s. 473.308(4) ~~s. 473.308(3)~~.

(5) ~~(4)~~ The board may adopt an alternative licensure

examination for persons who have been licensed to practice public accountancy or its equivalent in a foreign country so long as the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has ratified an agreement with that country for reciprocal licensure.

(6) ~~(5)~~ For the purposes of maintaining the proper educational qualifications for licensure under this chapter, the board may appoint an Educational Advisory Committee, which shall be composed of one member of the board, two persons in public practice who are licensed under this chapter, and four academicians on faculties of universities in this state.

Section 11. Present subsections (3) through (9) of section 473.308, Florida Statutes, are redesignated as subsections (4) through (10), respectively, a new subsection (3) is added to that section, and subsection (2), paragraph (b) of present subsection (4), and present subsection (8) of that section are amended, to read:

473.308 Licensure.—

(2) The board shall certify for licensure any applicant who successfully passes the licensure examination and satisfies the requirements of subsections (4), (5), and (6) ~~(3), (4), and (5),~~ and shall certify for licensure any firm that satisfies the requirements of ss. 473.309 and 473.3101. The board may refuse to certify any applicant or firm that has violated any of the provisions of s. 473.322.

(3) A person desiring to be licensed as a Florida certified public accountant or a firm desiring to engage in the practice of public accounting must create and maintain an online account with the department and provide an e-mail address to function as the primary means of contact for all communication from the department. Certified public accountants and firms are responsible for maintaining accurate contact information on file with the department and must submit any change in an e-mail address or street address within 30 days after the change. All changes must be submitted through the department's online system.

(5) ~~(4)~~

(b) However, an applicant who completed the requirements of subsection (4) ~~(3)~~ on or before December 31, 2008, and who passes the licensure examination on or before June 30, 2010, is exempt from the requirements of this subsection.

(9) ~~(8)~~ If the applicant has at least 5 years of experience in the practice of public accountancy in the United States or in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States, or has at least 5 years of work experience that meets the requirements of subsection (5) ~~(4)~~, the board must ~~shall~~ waive the requirements

of subsection (4) ~~(3)~~ which are in excess of a baccalaureate degree. All experience that is used as a basis for waiving the requirements of subsection (4) ~~(3)~~ must be while licensed as a certified public accountant by another state or territory of the United States or while licensed in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States. The board shall have the authority to establish the standards for experience that meet this requirement.

Section 12. Subsection (2) of section 475.181, Florida Statutes, is amended to read:

475.181 Licensure.—

(2) The commission shall certify for licensure any applicant who satisfies the requirements of ss. 475.17, 475.175, and 475.180. The commission may refuse to certify any applicant who has violated any of the provisions of s. 475.42 or who is subject to discipline under s. 475.25. The application shall expire 2 years after the date received if the applicant does not pass the appropriate examination. ~~Additionally, if an applicant does not pass the licensing examination within 2 years after the successful course completion date, the applicant's successful course completion is invalid for licensure.~~

Section 13. Subsections (2) and (3) of section 476.114, Florida Statutes, are amended to read:

476.114 Examination; prerequisites.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice barbering if the applicant:

(a) Is at least 16 years of age;

(b) Pays the required application fee; and

(c)~~1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or~~

~~2.~~ Has received a minimum of 900 hours of training in sanitation, safety, and laws and rules, as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

1.~~a.~~ A school of barbering licensed pursuant to chapter 1005;

2.~~b.~~ A barbering program within the public school system; or

3.~~c.~~ A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the

required examination after the completion of a minimum of 600 actual school hours. If the person passes the examination, she or he has ~~shall have~~ satisfied this requirement; but if the person fails the examination, she or he may ~~shall~~ not ~~be~~ qualified to take the examination again until the completion of the full requirements provided by this section.

(3) An applicant who meets the requirements set forth in paragraph (2)(c) ~~subparagraphs (2)(c)1. and 2.~~ who fails to pass the examination may take subsequent examinations as many times as necessary to pass, except that the board may specify by rule reasonable timeframes for rescheduling the examination and additional training requirements for applicants who, after the third attempt, fail to pass the examination. Prior to reexamination, the applicant must file the appropriate form and pay the reexamination fee as required by rule.

Section 14. Subsection (2) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(2) An applicant is ~~shall be~~ eligible for licensure by examination to practice cosmetology if the applicant:

(a) Is at least 16 years of age or has received a high school diploma;

(b) Pays the required application fee, which is not

refundable, and the required examination fee, which is refundable if the applicant is determined to not be eligible for licensure for any reason other than failure to successfully complete the licensure examination; and

(c) ~~1. Is authorized to practice cosmetology in another state or country, has been so authorized for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection (5); or~~

~~2.~~ Has received a minimum of 1,200 hours of training as established by the board, which must ~~shall~~ include, but is ~~shall~~ not ~~be~~ limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

1.~~a.~~ A school of cosmetology licensed pursuant to chapter 1005.

2.~~b.~~ A cosmetology program within the public school system.

3.~~c.~~ The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.

4.~~d.~~ A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the

required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she has ~~shall have~~ satisfied this requirement; but if the person fails the examination, he or she may ~~shall~~ not be qualified to take the examination again until the completion of the full requirements provided by this section.

Section 15. Paragraph (c) of subsection (7) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(7)

(c) In addition to any action the local jurisdiction enforcement body may take against the individual's local license, and any fine the local jurisdiction may impose, the local jurisdiction enforcement body shall issue a recommended penalty for board action. This recommended penalty may include a recommendation for no further action, or a recommendation for suspension, restitution, revocation, or restriction of the registration, or a fine to be levied by the board, or a combination thereof. The recommended penalty must specify the violations of this chapter upon which the recommendation is based. The local jurisdiction enforcement body shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his or her rights to appeal, and the consequences should he or she decide not to appeal. The local jurisdiction enforcement body shall,

upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the board of its action and the recommended board penalty.

Section 16. Subsections (3) and (6) of section 489.143, Florida Statutes, are amended to read:

489.143 Payment from the fund.—

(3) Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject to a $50,000 maximum payment for each Division I claim. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject to a $15,000 maximum payment for each Division II claim. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject to a $100,000 maximum payment for each Division I claim and a $30,000 maximum payment for each Division II claim.

(6) For contracts entered into before July 1, 2004, payments for claims against any one licensee may not exceed, in the aggregate, $100,000 annually, up to a total aggregate of $250,000. For any claim approved by the board which is in excess of the annual cap, the amount in excess of $100,000 up to the total aggregate cap of $250,000 is eligible for payment in the next and succeeding fiscal years, but only after all claims for the then-current calendar year have been paid. Payments may not

exceed the aggregate annual or per claimant limits under law. Beginning January 1, 2005, for each Division I contract entered into after July 1, 2004, payment from the recovery fund is subject only to a total aggregate cap of $500,000 for each Division I licensee. Beginning January 1, 2017, for each Division II contract entered into on or after July 1, 2016, payment from the recovery fund is subject only to a total aggregate cap of $150,000 for each Division II licensee. Beginning January 1, 2025, for Division I and Division II contracts entered into on or after July 1, 2024, payment from the recovery fund is subject only to a total aggregate cap of $2 million for each Division I licensee and $600,000 for each Division II licensee.

Section 17. Paragraph (b) of subsection (15) of section 499.012, Florida Statutes, is amended to read:

499.012 Permit application requirements.—

(15)

(b) To be certified as a designated representative, a natural person must:

1. Submit an application on a form furnished by the department and pay the appropriate fees.

2. Be at least 18 years of age.

3. Have at least 2 years of verifiable full-time:

a. Work experience in a pharmacy licensed in this state or another state, where the person's responsibilities included, but

were not limited to, recordkeeping for prescription drugs;

b. Managerial experience with a prescription drug wholesale distributor licensed in this state or in another state; ~~or~~

c. Managerial experience with the United States Armed Forces, where the person's responsibilities included, but were not limited to, recordkeeping, warehousing, distributing, or other logistics services pertaining to prescription drugs;

d. Managerial experience with a state or federal organization responsible for regulating or permitting establishments involved in the distribution of prescription drugs, whether in an administrative or a sworn law enforcement capacity; or

e. Work experience as a drug inspector or investigator with a state or federal organization, whether in an administrative or a sworn law enforcement capacity, where the person's responsibilities related primarily to compliance with state or federal requirements pertaining to the distribution of prescription drugs.

4. Receive a passing score of at least 75 percent on an examination given by the department regarding federal laws governing distribution of prescription drugs and this part and the rules adopted by the department governing the wholesale distribution of prescription drugs. This requirement shall be effective 1 year after the results of the initial examination

are mailed to the persons that took the examination. The department shall offer such examinations at least four times each calendar year.

5. Provide the department with a personal information statement and fingerprints pursuant to subsection (9).

Section 18. Subsection (5) of section 561.17, Florida Statutes, is amended to read:

561.17 License and registration applications; approved person.—

(5) Any person or entity licensed or permitted by the division, or applying for a license or permit, must create and maintain an account with the division's online system and provide an e-mail ~~electronic mail~~ address to the division to function as the primary means of contact for all communication by the division to the licensee, ~~or~~ permittee, or applicant. Licensees, ~~and~~ permittees, and applicants are responsible for maintaining accurate contact information on file with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application for an alcoholic beverage license unless the application is submitted through the division's online system.

Section 19. Section 569.00256, Florida Statutes, is

created to read:

569.00256 Account; online system.—A person or an entity licensed or permitted by the division under this part, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants are responsible for maintaining accurate contact information with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application to deal, at retail, in tobacco products unless the application is submitted through the division's online system.

Section 20. Section 569.3156, Florida Statutes, is created to read:

569.3156 Account; online system.—A person or an entity licensed or permitted by the division under this part, or applying for a license or a permit, must create and maintain an account with the division's online system and provide an e-mail address to the division to function as the primary means of contact for all communication by the division to the licensee, permittee, or applicant. Licensees, permittees, and applicants

are responsible for maintaining accurate contact information with the division. A person or an entity seeking a license or permit from the division must apply using forms prepared by the division and filed through the division's online system before engaging in any business for which a license or permit is required. The division may not process an application to deal, at retail, in nicotine products unless the application is submitted through the division's online system.

Section 21. Paragraph (d) of subsection (1) of section 723.061, Florida Statutes, is amended to read:

723.061 Eviction; grounds, proceedings.—

(1) A mobile home park owner may evict a mobile home owner, a mobile home tenant, a mobile home occupant, or a mobile home only on one or more of the following grounds:

(d) Change in use of the land comprising the mobile home park, or the portion thereof from which mobile homes are to be evicted, from mobile home lot rentals to some other use, if:

1. The park owner gives written notice to the homeowners' association formed and operating under ss. 723.075-723.079 of its right to purchase the mobile home park, if the land comprising the mobile home park is changing use from mobile home lot rentals to a different use, at the price and under the terms and conditions set forth in the written notice.

a. The notice shall be delivered to the officers of the homeowners' association by United States mail. Within 45 days

after the date of mailing of the notice, the homeowners' association may execute and deliver a contract to the park owner to purchase the mobile home park at the price and under the terms and conditions set forth in the notice. If the contract between the park owner and the homeowners' association is not executed and delivered to the park owner within the 45-day period, the park owner is under no further obligation to the homeowners' association except as provided in sub-subparagraph b.

b. If the park owner elects to offer or sell the mobile home park at a price lower than the price specified in her or his initial notice to the officers of the homeowners' association, the homeowners' association has an additional 10 days to meet the revised price, terms, and conditions of the park owner by executing and delivering a revised contract to the park owner.

c. The park owner is not obligated under this subparagraph or s. 723.071 to give any other notice to, or to further negotiate with, the homeowners' association for the sale of the mobile home park to the homeowners' association after 6 months after the date of the mailing of the initial notice under sub-subparagraph a.

2. The park owner gives the affected mobile home owners and tenants at least 6 months' notice of the eviction due to the projected change in use and of their need to secure other

accommodations. Within 20 days after giving an eviction notice to a mobile home owner, the park owner must provide the division with a copy of the notice. ~~The division must provide the executive director of the Florida Mobile Home Relocation Corporation with a copy of the notice.~~

a. The notice of eviction due to a change in use of the land must include in a font no smaller than the body of the notice the following statement:

YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME RELOCATION TRUST FUND, ADMINISTERED BY THE DIVISION OF CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES ~~FLORIDA MOBILE HOME RELOCATION CORPORATION (FMHRC)~~. DIVISION ~~FMHRC~~ CONTACT INFORMATION IS AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.

b. The park owner may not give a notice of increase in lot rental amount within 90 days before giving notice of a change in use.

Section 22. Section 723.0611, Florida Statutes, is repealed.

Section 23. Section 723.06115, Florida Statutes, is amended to read:

723.06115 Florida Mobile Home Relocation Trust Fund.—

(1) The Florida Mobile Home Relocation Trust Fund is established within the Department of Business and Professional Regulation. The trust fund is to be used to fund the administration and operations of the Division of Florida Condominiums, Timeshares, and Mobile Homes ~~Florida Mobile Home Relocation Corporation~~. All interest earned from the investment or deposit of moneys in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from moneys collected by the division ~~corporation~~ from mobile home park owners under s. 723.06116, the surcharge collected by the department under s. 723.007(2), the surcharge collected by the Department of Highway Safety and Motor Vehicles, and from other appropriated funds.

(2) Moneys in the Florida Mobile Home Relocation Trust Fund may be expended only:

(a) To pay the administration costs of the division ~~Florida Mobile Home Relocation Corporation~~; and

(b) To carry out the purposes and objectives of the division ~~corporation~~ by making payments to mobile home owners under the relocation program.

(3) The department shall distribute moneys in the Florida Mobile Home Relocation Trust Fund to the division ~~Florida Mobile Home Relocation Corporation~~ in accordance with the following:

(a) Before the beginning of each fiscal year, the division ~~corporation~~ shall submit its annual operating budget, as approved by the division ~~corporation board~~, for the fiscal year

and set forth that amount to the department in writing. One-fourth of the operating budget shall be transferred to the division ~~corporation~~ each quarter. The department shall make the first one-fourth quarter transfer on the first business day of the fiscal year and make the remaining one-fourth quarter transfers before the second business day of the second, third, and fourth quarters. The division ~~corporation board~~ may approve changes to the operational budget for a fiscal year by providing written notification of such changes to the department. The written notification must indicate the changes to the operational budget and the conditions that were unforeseen at the time the division ~~corporation~~ developed the operational budget and why the changes are essential in order to continue operation of the division ~~corporation~~.

(b) The division ~~corporation~~ shall periodically submit requests to the department for the transfer of funds to the division ~~corporation~~ needed to make payments to mobile home owners under the relocation program. Requests must include documentation indicating the amount of funds needed, the name and location of the mobile home park, the number of approved applications for moving expenses or abandonment allowance, and summary information specifying the number and type, single-section or multisection, of homes moved or abandoned. The department shall process requests that include such documentation, subject to the availability of sufficient funds

within the trust fund, within 5 business days after receipt of the request. Transfer requests may be submitted electronically.

(c) Funds transferred from the trust fund to the division ~~corporation~~ shall be transferred electronically and shall be transferred to and maintained in a qualified public depository as defined in s. 280.02 which is specified by the division ~~corporation~~.

(4) Other than the requirements specified under this section, neither the division ~~corporation~~ nor the department is required to take any other action as a prerequisite to accomplishing the provisions of this section.

(5) This section does not preclude department inspection of division ~~corporation~~ records 5 business days after receipt of written notice.

Section 24. Section 723.06116, Florida Statutes, is amended to read:

723.06116 Payments to the Division of Florida Condominiums, Timeshares, and Mobile Homes ~~Mobile Home Relocation Corporation~~.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising a mobile home park as set forth in s. 723.061(1)(d), the mobile home park owner shall, upon such change in use, pay to the Division of Florida Condominiums, Timeshares, and Mobile Homes ~~Mobile Home Relocation Corporation~~ for deposit in the Florida Mobile Home

Relocation Trust Fund $2,750 for each single-section mobile home and $3,750 for each multisection mobile home for which a mobile home owner has made application for payment of moving expenses. The mobile home park owner shall make the payments required by this section and by s. 723.0612(7) to the division ~~corporation~~ within 30 days after receipt from the division ~~corporation~~ of the invoice for payment. Failure to make such payment within the required time period shall result in a late fee being imposed.

(a) If payment is not submitted within 30 days after receipt of the invoice, a 10-percent late fee shall be assessed.

(b) If payment is not submitted within 60 days after receipt of the invoice, a 15-percent late fee shall be assessed.

(c) If payment is not submitted within 90 days after receipt of the invoice, a 20-percent late fee shall be assessed.

(d) Any payment received 120 days or more after receipt of the invoice shall include a 25-percent late fee.

(2) A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612(1), when:

(a) The mobile home park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the mobile home park owner or manager before the change in use notice has been given; or

(c) A mobile home owner abandons the mobile home as set forth in s. 723.0612(7).

(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d).

(3) This section and s. 723.0612(7) are enforceable by the division ~~corporation~~ by action in a court of appropriate jurisdiction.

(4) In any action brought by the division ~~corporation~~ to collect payments assessed under this chapter, the division ~~corporation~~ may file and maintain such action in Leon County. If the division ~~corporation~~ is a party in any other action, venue for such action shall be in Leon County.

Section 25. Subsections (1) through (5), (7) through (9), (11), and (12) of section 723.0612, Florida Statutes, are amended, and subsection (2) of that section is reenacted, to read:

723.0612 Change in use; relocation expenses; payments by park owner.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising the mobile home park as set forth in s. 723.061(1)(d) and complies with the requirements of this section, the mobile home owner is entitled to payment from

the Division of Florida Condominiums, Timeshares, and Mobile Homes ~~Mobile Home Relocation Corporation~~ of:

(a) The amount of actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or

(b) The amount of $3,000 for a single-section mobile home or $6,000 for a multisection mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.

(2) A mobile home owner is not ~~shall not be~~ entitled to compensation under subsection (1) when:

(a) The park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the park owner or manager before notice of the change in use has been given;

(c) A mobile home owner abandons the mobile home as set forth in subsection (7); or

(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d).

(3) Except as provided in subsection (7), in order to

obtain payment from the division ~~Florida Mobile Home Relocation Corporation~~, the mobile home owner shall submit to the division ~~corporation~~, with a copy to the park owner, an application for payment which includes:

(a) A copy of the notice of eviction due to change in use; and

(b) A contract with a moving or towing contractor for the moving expenses for the mobile home.

(4) The division ~~Florida Mobile Home Relocation Corporation~~ must approve payment within 45 days after receipt of the information set forth in subsection (3), or payment is deemed approved. A copy of the approval must be forwarded to the park owner with an invoice for payment. Upon approval, the division ~~corporation~~ shall issue a voucher in the amount of the contract price for relocating the mobile home. The moving contractor may redeem the voucher from the division ~~corporation~~ following completion of the relocation and upon approval of the relocation by the mobile home owner.

(5) Actions of the division ~~Florida Mobile Home Relocation Corporation~~ under this section are not subject to the provisions of chapter 120 but are reviewable only by writ of certiorari in the circuit court in the county in which the claimant resides in the manner and within the time provided by the Florida Rules of Appellate Procedure.

(7) In lieu of collecting payment from the division

~~Florida Mobile Home Relocation Corporation~~ as set forth in subsection (1), a mobile home owner may abandon the mobile home in the mobile home park and collect $1,375 for a single section and $2,750 for a multisection from the division ~~corporation~~ as long as the mobile home owner delivers to the park owner the current title to the mobile home duly endorsed by the owner of record and valid releases of all liens shown on the title. If a mobile home owner chooses this option, the park owner shall make payment to the division ~~corporation~~ in an amount equal to the amount the mobile home owner is entitled to under this subsection. The mobile home owner's application for funds under this subsection shall require the submission of a document signed by the park owner stating that the home has been abandoned under this subsection and that the park owner agrees to make payment to the division ~~corporation~~ in the amount provided to the home owner under this subsection. However, in the event that the required documents are not submitted with the application, the division ~~corporation~~ may consider the facts and circumstances surrounding the abandonment of the home to determine whether the mobile home owner is entitled to payment pursuant to this subsection. The mobile home owner is not entitled to any compensation under this subsection if there is a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in the use of

the mobile home park given pursuant to s. 723.061(1)(d).

(8) The division ~~Florida Mobile Home Relocation Corporation~~ may ~~shall~~ not be liable to any person for recovery if funds are insufficient to pay the amounts claimed. In any such event, the division ~~corporation~~ shall keep a record of the time and date of its approval of payment to a claimant. If sufficient funds become available, the division ~~corporation~~ must ~~shall~~ pay the claimant whose unpaid claim is the earliest by time and date of approval.

(9) Any person whose application for funding pursuant to subsection (1) or subsection (7) is approved for payment by the division ~~corporation~~ is ~~shall be~~ barred from asserting any claim or cause of action under this chapter directly relating to or arising out of the change in use of the mobile home park against the division ~~corporation~~, the park owner, or the park owner's successors in interest. An ~~No~~ application for funding pursuant to subsection (1) or subsection (7) may not ~~shall~~ be approved by the division ~~corporation~~ if the applicant has filed a claim or cause of action, is actively pursuing a claim or cause of action, has settled a claim or cause of action, or has a judgment against the division ~~corporation~~, the park owner, or the park owner's successors in interest under this chapter directly relating to or arising out of the change in use of the mobile home park, unless such claim or cause of action is dismissed with prejudice.

(11) In an action to enforce the provisions of this section and ss. ~~723.0611,~~ 723.06115~~,~~ and 723.06116, the prevailing party is entitled to reasonable attorney's fees and costs.

(12) An application to the division ~~corporation~~ for compensation under subsection (1) or subsection (7) must be received within 1 year after the expiration of the eviction period as established in the notice required under s. 723.061(1)(d). If the applicant files a claim or cause of action that disqualifies the applicant under subsection (9) and the claim is subsequently dismissed, the application must be received within 6 months following filing of the dismissal with prejudice as required under subsection (9). However, such an applicant must apply within 2 years after the expiration of the eviction period as established in the notice required under s. 723.061(1)(d).

Section 26. Paragraph (a) of subsection (4) of section 20.165, Florida Statutes, is amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(4)(a) The following boards and programs are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.

2. Florida Board of Auctioneers, created under part VI of chapter 468.

3. Barbers' Board, created under chapter 476.

4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

5. Construction Industry Licensing Board, created under part I of chapter 489.

6. Board of Cosmetology, created under chapter 477.

7. Electrical Contractors' Licensing Board, created under part II of chapter 489.

8. Employee leasing companies licensing program ~~Board of Employee Leasing Companies~~, created under part XI of chapter 468.

9. Board of Landscape Architecture, created under part II of chapter 481.

10. Board of Pilot Commissioners, created under chapter 310.

11. Board of Professional Engineers, created under chapter 471.

12. Board of Professional Geologists, created under chapter 492.

13. Board of Veterinary Medicine, created under chapter 474.

14. Home inspection services licensing program, created under part XV of chapter 468.

15. Mold-related services licensing program, created under part XVI of chapter 468.

Section 27. Subsection (2) of section 210.16, Florida Statutes, is amended to read:

210.16 Revocation or suspension of permit.—

(2) The division shall revoke the permit or permits of any person who would be ineligible to obtain a new license or renew a license by reason of any of the conditions for permitting provided in s. 210.15(1)(d)1.-6. ~~s. 210.15(1)(c)1.-6.~~

Section 28. Paragraph (uuu) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is

otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(uuu) *Small private investigative agencies.*—

1. As used in this paragraph, the term:

a. "Private investigation services" has the same meaning as "private investigation," as defined in s. 493.6101(17).

b. "Small private investigative agency" means a private investigator licensed under s. 493.6201 which:

(I) Employs three or fewer full-time or part-time employees, including those performing services pursuant to an employee leasing arrangement as defined in s. 468.520(3) ~~s. 468.520(4)~~, in total; and

(II) During the previous calendar year, performed private investigation services otherwise taxable under this chapter in which the charges for the services performed were less than $150,000 for all its businesses related through common ownership.

2. The sale of private investigation services by a small private investigative agency to a client is exempt from the tax imposed by this chapter.

3. The exemption provided by this paragraph may not apply in the first calendar year a small private investigative agency conducts sales of private investigation services taxable under this chapter.

Section 29. Paragraph (a) of subsection (19) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(19)(a) "Employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment, and the legal representative of a deceased person or the receiver or trustees of any person. The term also includes employee leasing companies, as defined in s. 468.520(4) ~~s. 468.520(5)~~, and employment agencies that provide their own employees to other persons. If the employer is a corporation, parties in actual control of the corporation, including, but not limited to, the president, officers who exercise broad corporate powers, directors, and all shareholders who directly or indirectly own a controlling interest in the corporation, are considered the employer for the purposes of ss. 440.105, 440.106, and 440.107.

Section 30. Section 448.26, Florida Statutes, is amended to read:

448.26 Application.—Nothing in this part shall exempt any client of any labor pool or temporary help arrangement entity as defined in s. 468.520(3)(a) ~~s. 468.520(4)(a)~~ or any assigned employee from any other license requirements of state, local, or federal law. Any employee assigned to a client who is licensed, registered, or certified pursuant to law shall be deemed an employee of the client for such licensure purposes but shall remain an employee of the labor pool or temporary help arrangement entity for purposes of chapters 440 and 443.

Section 31. Subsection (2) of section 468.520, Florida Statutes, is amended to read:

468.520 Definitions.—As used in this part:

~~(2) "Board" means the Board of Employee Leasing Companies.~~

Section 32. Section 468.522, Florida Statutes, is amended to read:

468.522 Rules ~~of the board~~.—The department may ~~board has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this part. Every licensee shall be governed and controlled by this part and the rules adopted by the department ~~board~~.

Section 33. Subsections (2) and (4) of section 468.524, Florida Statutes, are amended to read:

468.524 Application for license.—

(2) The department ~~board~~ may require information and certifications necessary to determine that the applicant is of good moral character and meets other licensure requirements of this part.

(4) An applicant or licensee is ineligible to reapply for a license for a period of 1 year following final agency action on the denial or revocation of a license applied for or issued under this part. This time restriction does not apply to administrative denials or revocations entered because:

(a) The applicant or licensee has made an inadvertent error or omission on the application;

(b) The experience documented to the department ~~board~~ was insufficient at the time of the previous application;

(c) The department is unable to complete the criminal background investigation because of insufficient information from the Florida Department of Law Enforcement, the Federal Bureau of Investigation, or any other applicable law enforcement agency;

(d) The applicant or licensee has failed to submit required fees; or

(e) An applicant or licensed employee leasing company has been deemed ineligible for a license because of the lack of good moral character of an individual or individuals when such individual or individuals are no longer employed in a capacity that would require their licensing under this part.

Section 34. Section 468.5245, Florida Statutes, is amended to read:

468.5245 Change of ownership.—

(1) A license or registration issued to any entity under this part may not be transferred or assigned. The department ~~board~~ shall adopt rules to provide for a licensee's or registrant's change of name or location.

(2) A person or entity that seeks to purchase or acquire control of an employee leasing company or group licensed or registered under this part must first apply to the department ~~board~~ for a certificate of approval for the proposed change of ownership. However, prior approval is not required if, at the time the purchase or acquisition occurs, a controlling person of the employee leasing company or group maintains a controlling person license under this part. Notification must be provided to the department ~~board~~ within 30 days after the purchase or acquisition of such company in the manner prescribed by the department ~~board~~.

(3) Any application that is submitted to the department ~~board~~ under this section is ~~shall be~~ deemed approved if the department ~~board~~ has not approved the application or rejected the application, and provided the applicant with the basis for a rejection, within 90 days after the receipt of the completed application.

(4) The department ~~board~~ shall establish filing fees for a

change-of-ownership application in accordance with s. 468.524(1).

Section 35. Subsections (2) and (3) of section 468.525, Florida Statutes, are amended to read:

468.525 License requirements.—

(2)(a) As used in this part, "good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for the laws of this state and nation. A thorough background investigation of the individual's good moral character shall be instituted by the department. Such investigation shall require:

1. The submission of fingerprints, for processing through appropriate law enforcement agencies, by the applicant and the examination of police records by the department ~~board~~.

2. Such other investigation of the individual as the department ~~board~~ may deem necessary.

(b) The department ~~board~~ may deny an application for licensure or renewal citing lack of good moral character. Conviction of a crime within the last 7 years does ~~shall~~ not automatically bar any applicant or licensee from obtaining a license or continuing as a licensee. The department ~~board~~ shall consider the type of crime committed, the crime's relevancy to the employee leasing industry, the length of time since the conviction and any other factors deemed relevant by the

department ~~board~~.

(3) Each employee leasing company licensed by the department shall have a registered agent for service of process in this state and at least one licensed controlling person. In addition, each licensed employee leasing company shall comply with the following requirements:

(a) The employment relationship with workers provided by the employee leasing company to a client company shall be established by written agreement between the leasing company and the client, and written notice of that relationship shall be given by the employee leasing company to each worker who is assigned to perform services at the client company's worksite.

(b) An applicant for an initial employee leasing company license shall have a tangible accounting net worth of not less than $50,000.

(c) An applicant for initial or renewal license of an employee leasing company license or employee leasing company group shall have an accounting net worth or shall have guaranties, letters of credit, or other security acceptable to the department ~~board~~ in sufficient amounts to offset any deficiency. A guaranty will not be acceptable to satisfy this requirement unless the applicant submits sufficient evidence to satisfy the department ~~board~~ that the guarantor has adequate resources to satisfy the obligation of the guaranty.

(d) Each employee leasing company shall maintain an

accounting net worth and positive working capital, as determined in accordance with generally accepted accounting principles, or shall have guaranties, letters of credit, or other security acceptable to the department ~~board~~ in sufficient amounts to offset any deficiency. A guaranty will not be acceptable to satisfy this requirement unless the licensee submits sufficient evidence, as defined by rule, that the guarantor has adequate resources to satisfy the obligation of the guaranty. In determining the amount of working capital, a licensee shall include adequate reserves for all taxes and insurance, including plans of self-insurance or partial self-insurance for claims incurred but not paid and for claims incurred but not reported. Compliance with the requirements of this paragraph is subject to verification by department ~~or board~~ audit.

(e) Each employee leasing company or employee leasing company group shall submit annual financial statements audited by an independent certified public accountant, with the application and within 120 days after the end of each fiscal year, in a manner and time prescribed by the department ~~board~~, provided however, that any employee leasing company or employee leasing company group with gross Florida payroll of less than $2.5 million during any fiscal year may submit financial statements reviewed by an independent certified public accountant for that year.

(f) The licensee shall notify the department ~~or board~~ in

writing within 30 days after any change in the application or status of the license.

(g) Each employee leasing company or employee leasing company group shall maintain accounting and employment records relating to all employee leasing activities for a minimum of 3 calendar years.

Section 36. Subsections (3) and (5) of section 468.526, Florida Statutes, are amended to read:

468.526 License required; fees.—

(3) Each employee leasing company and employee leasing company group licensee shall pay to the department upon the initial issuance of a license and upon each renewal thereafter a license fee not to exceed $2,500 to be established by the department ~~board~~. In addition to the license fee, the department ~~board~~ shall establish an annual assessment for each employee leasing company and each employee leasing company group sufficient to cover all costs for regulation of the profession pursuant to this chapter, chapter 455, and any other applicable provisions of law. The annual assessment shall:

(a) Be due and payable upon initial licensure and subsequent renewals thereof and 1 year before the expiration of any licensure period; and

(b) Be based on a fixed percentage, variable classes, or a combination of both, as determined by the department ~~board~~, of gross Florida payroll for employees leased to clients by the

applicant or licensee during the period beginning five quarters before and ending one quarter before each assessment. It is the intent of the Legislature that the greater weight of total fees for licensure and assessments should be on larger companies and groups.

(5) Each controlling person licensee shall pay to the department upon the initial issuance of a license and upon each renewal thereafter a license fee to be established by the department ~~board~~ in an amount not to exceed $2,000.

Section 37. Subsection (1) of section 468.527, Florida Statutes, is amended to read:

468.527 Licensure and license renewal.—

(1) The department shall license any applicant who the department ~~board~~ certifies is qualified to practice employee leasing as an employee leasing company, employee leasing company group, or controlling person.

Section 38. Subsection (2) of section 468.5275, Florida Statutes, is amended to read:

468.5275 Registration and exemption of de minimis operations.—

(2) A registration is valid for 1 year. Each registrant shall pay to the department upon initial registration, and upon each renewal thereafter, a registration fee to be established by the department ~~board~~ in an amount not to exceed:

(a) Two hundred and fifty dollars for an employee leasing

company.

(b) Five hundred dollars for an employee leasing company group.

Section 39. Subsections (2), (4), and (5) of section 468.529, Florida Statutes, are amended to read:

468.529 Licensee's insurance; employment tax; benefit plans.—

(2) An initial or renewal license may not be issued to any employee leasing company unless the employee leasing company first files with the department ~~board~~ evidence of workers' compensation coverage for all leased employees in this state. Each employee leasing company shall maintain and make available to its workers' compensation carrier the following information:

(a) The correct name and federal identification number of each client company.

(b) A listing of all covered employees provided to each client company, by classification code.

(c) The total eligible wages by classification code and the premiums due to the carrier for the employees provided to each client company.

(4) An initial or renewal license may not be issued to any employee leasing company unless the employee leasing company first provides evidence to the department ~~board~~, as required by department ~~board~~ rule, that the employee leasing company has paid all of the employee leasing company's obligations for

payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. All disputed amounts must be disclosed in the application.

(5) The provisions of this section are subject to verification by department ~~or board~~ audit.

Section 40. Subsections (3) and (4) of section 468.530, Florida Statutes, are amended to read:

468.530 License, contents; posting.—

(3) No license shall be valid for any person or entity who engages in the business under any name other than that specified in the license. A license issued under this part is ~~shall~~ not ~~be~~ assignable, and no licensee may conduct a business under a fictitious name without prior written authorization of the department ~~board~~ to do so. The department ~~board~~ may not authorize the use of a name which is so similar to that of a public officer or agency, or of that used by another licensee, that the public may be confused or misled thereby. No licensee shall be permitted to conduct business under more than one name unless it has obtained a separate license. A licensee desiring to change its licensed name at any time except upon license renewal shall notify the department ~~board~~ and pay a fee not to exceed $50 for each authorized change of name.

(4) Each employee leasing company or employee leasing company group licensed under this part shall be properly identified in all advertisements, which must include the license

number, licensed business name, and other appropriate information in accordance with department rules ~~established by the board~~.

Section 41. Subsection (1) of section 468.531, Florida Statutes, is amended to read:

468.531 Prohibitions; penalties.—

(1) No person or entity shall:

(a) Practice or offer to practice as an employee leasing company, an employee leasing company group, or a controlling person unless such person or entity is licensed pursuant to this part;

(b) Practice or offer to practice as an employee leasing company or employee leasing company group unless all controlling persons thereof are licensed pursuant to this part;

(c) Use the name or title "licensed employee leasing company," "employee leasing company," "employee leasing company group," "professional employer," "professional employer organization," "controlling person," or words that would tend to lead one to believe that such person or entity is registered pursuant to this part, when such person or entity has not registered pursuant to this part;

(d) Present as his or her own or his or her entity's own the license of another;

(e) Knowingly give false or forged evidence to the department ~~board or a member thereof~~; or

(f) Use or attempt to use a license that has been suspended or revoked.

Section 42. Subsections (1), (2), and (4) of section 468.532, Florida Statutes, are amended to read:

468.532 Discipline.—

(1) The following constitute grounds for which disciplinary action against a licensee may be taken by the department ~~board~~:

(a) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, bribery, fraud, or willful misrepresentation in obtaining, attempting to obtain, or renewing a license.

(b) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the operation of an employee leasing business or the ability to engage in business as an employee leasing company.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the classification of employees pursuant to chapter 440.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the establishment or maintenance of self-insurance, be it health insurance or workers' compensation

insurance.

(e) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, fraud, deceit, or misconduct in the operation of an employee leasing company.

(f) Conducting business without an active license.

(g) Failing to maintain workers' compensation insurance as required in s. 468.529.

(h) Transferring or attempting to transfer a license issued pursuant to this part.

(i) Violating any provision of this part or any lawful order or rule issued under the provisions of this part or chapter 455.

(j) Failing to notify the department ~~board~~, in writing, of any change of the primary business address or the addresses of any of the licensee's offices in the state.

(k) Having been confined in any county jail, postadjudication, or being confined in any state or federal prison or mental institution, or when through mental disease or deterioration, the licensee can no longer safely be entrusted to deal with the public or in a confidential capacity.

(l) Having been found guilty for a second time of any misconduct that warrants suspension or being found guilty of a course of conduct or practices which shows that the licensee is so incompetent, negligent, dishonest, or untruthful that the

money, property, transactions, and rights of investors, or those with whom the licensee may sustain a confidential relationship, may not safely be entrusted to the licensee.

(m) Failing to inform the department ~~board~~ in writing within 30 days after being convicted or found guilty of, or entering a plea of nolo contendere to, any felony, regardless of adjudication.

(n) Failing to conform to any lawful order of the department ~~board~~.

(o) Being determined liable for civil fraud by a court in any jurisdiction.

(p) Having adverse material final action taken by any state or federal regulatory agency for violations within the scope of control of the licensee.

(q) Failing to inform the department ~~board~~ in writing within 30 days after any adverse material final action by a state or federal regulatory agency.

(r) Failing to meet or maintain the requirements for licensure as an employee leasing company or controlling person.

(s) Engaging as a controlling person any person who is not licensed as a controlling person by the department ~~board~~.

(t) Attempting to obtain, obtaining, or renewing a license to practice employee leasing by bribery, misrepresentation, or fraud.

(2) When the department ~~board~~ finds any violation of

subsection (1), it may do one or more of the following:

(a) Deny an application for licensure.

(b) Permanently revoke, suspend, restrict, or not renew a license.

(c) Impose an administrative fine not to exceed $5,000 for every count or separate offense.

(d) Issue a reprimand.

(e) Place the licensee on probation for a period of time and subject to such conditions as the department ~~board~~ may specify.

(f) Assess costs associated with investigation and prosecution.

(4) The department ~~board~~ shall specify the penalties for any violation of this part.

Section 43. Paragraph (a) of subsection (6) of section 476.144, Florida Statutes, is amended to read:

476.144 Licensure.—

(6) A person may apply for a restricted license to practice barbering. The board shall adopt rules specifying procedures for an applicant to obtain a restricted license if the applicant:

(a)1. Has successfully completed a restricted barber course, as established by rule of the board, at a school of barbering licensed pursuant to chapter 1005, a barbering program within the public school system, or a government-operated

barbering program in this state; or

2.a. Holds or has within the previous 5 years held an active valid license to practice barbering in another state or country or has held a Florida barbering license which has been declared null and void for failure to renew the license, and the applicant fulfilled the requirements of s. 476.114(2)(c) ~~s. 476.114(2)(c)2.~~ for initial licensure; and

b. Has not been disciplined relating to the practice of barbering in the previous 5 years; and

The restricted license shall limit the licensee's practice to those specific areas in which the applicant has demonstrated competence pursuant to rules adopted by the board.

Section 44. Paragraph (a) of subsection (2) of section 627.192, Florida Statutes, is amended to read:

627.192 Workers' compensation insurance; employee leasing arrangements.—

(2) For purposes of the Florida Insurance Code:

(a) "Employee leasing" shall have the same meaning as set forth in s. 468.520(3) ~~s. 468.520(4)~~.

Section 45. For the purpose of incorporating the amendment made by this act to section 723.061, Florida Statutes, in a reference thereto, subsection (1) of section 48.184, Florida Statutes, is reenacted to read:

48.184 Service of process for removal of unknown parties

in possession.—

(1) This section applies only to actions governed by s. 82.03, s. 83.21, s. 83.59, or s. 723.061 and only to the extent that such actions seek relief for the removal of an unknown party or parties in possession of real property. The provisions of this section are cumulative to other provisions of law or rules of court about service of process, and all other such provisions are cumulative to this section.

Section 46. For the purpose of incorporating the amendment made by this act to section 723.061, Florida Statutes, in a reference thereto, subsection (5) of section 723.004, Florida Statutes, is reenacted to read:

723.004 Legislative intent; preemption of subject matter.—

(5) Nothing in this chapter shall be construed to prevent the enforcement of a right or duty under this section, s. 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s. 723.035, s. 723.037, s. 723.038, s. 723.061, s. 723.0615, s. 723.062, s. 723.063, or s. 723.081 by civil action after the party has exhausted its administrative remedies, if any.

Section 47. For the purpose of incorporating the amendment made by this act to section 723.061, Florida Statutes, in a reference thereto, subsection (9) of section 723.031, Florida Statutes, is reenacted to read:

723.031 Mobile home lot rental agreements.—

(9) No rental agreement shall provide for the eviction of

a mobile home owner on a ground other than one contained in s. 723.061.

Section 48. For the purpose of incorporating the amendment made by this act to section 723.061, Florida Statutes, in a reference thereto, subsection (1) of section 723.032, Florida Statutes, is reenacted to read:

723.032 Prohibited or unenforceable provisions in mobile home lot rental agreements.—

(1) A mobile home lot rental agreement may provide a specific duration with regard to the amount of rental payments and other conditions of the tenancy, but the rental agreement shall neither provide for, nor be construed to provide for, the termination of any tenancy except as provided in s. 723.061.

Section 49. For the purpose of incorporating the amendment made by this act to section 723.061, Florida Statutes, in a reference thereto, subsection (2) of section 723.085, Florida Statutes, is reenacted to read:

723.085 Rights of lienholder on mobile homes in rental mobile home parks.—

(2) Upon the foreclosure of the lien for unpaid purchase price and sale of the mobile home, the owner of the mobile home must qualify for tenancy in the mobile home park in accordance with the rules and regulations of the mobile home park. The park owner shall comply with the provisions of s. 723.061 in determining whether the homeowner may qualify as a tenant.

Section 50. For the purpose of incorporating the amendment made by this act to section 723.06115, Florida Statutes, in a reference thereto, subsection (1) of section 320.08015, Florida Statutes, is reenacted to read:

320.08015 License tax surcharge.—

(1) Except as provided in subsection (2), there is levied on each license tax imposed under s. 320.08(11) a surcharge in the amount of $1, which shall be collected in the same manner as the license tax and shall be deposited in the Florida Mobile Home Relocation Trust Fund, as created in s. 723.06115. This surcharge may not be imposed during the next registration and renewal period if the balance in the Florida Mobile Home Relocation Trust Fund exceeds $10 million on June 30. The surcharge shall be reinstated in the next registration and renewal period if the balance in the Florida Mobile Home Relocation Trust Fund is below $6 million on June 30.

Section 51. For the 2024-2025 fiscal year, the sum of $315,692 in recurring funds is appropriated from the Florida Mobile Home Relocation Trust Fund to the Department of Business and Professional Regulation for the purpose of implementing this act.

Section 52. This act shall take effect July 1, 2024.

HB 1379

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1379 Human Trafficking
SPONSOR(S): Amesty
TIED BILLS: **IDEN./SIM. BILLS:** SB 1690

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

SUMMARY ANALYSIS

Recent studies have found that the average age a person enters the sex trade is 17 years of age.

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. Some of these laws have been challenged, and some courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments.

Section 847.001, F.S., defines “adult entertainment establishment,” to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

Florida law provides that it is unlawful for any licensed alcohol vendor to employ any person under 18 years of age, with certain exceptions. For example, a person under age 18 may be employed at a restaurant, bowling alley, and a theme park, as long as he or she is not involved in alcohol sales.

The bill prohibits any person from knowingly employing any person younger than 21 years of age in any adult entertainment establishment, and makes employing such person a felony of the second degree.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Adult Establishments

Section 847.001, F.S., defines "adult entertainment establishment," to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock book, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.[1]

Adult theaters are enclosed buildings or enclosed spaces within a building used for presenting either film, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities[2] for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.

Special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.

An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term does not include a massage therapy establishment licensed under s. 480.043, F.S.

Minors Working at a Licensed Alcohol Vendor

In Florida, the Beverage Law[3] regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.[4] The Division of Alcoholic Beverages and Tobacco

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[1] "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered. S. 847.001(21), F.S.

[2] Section 847.001(23), F.S, defines "specific sexual activities" as the following sexual activities and the exhibition of the following anatomical areas:

- Human genitals in the state of sexual stimulation or arousal.
- Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.
- The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.
- Less than completely and opaquely covered:
    - Human genitals or the pubic region.
    - Buttocks.
    - Female breasts below the top of the areola.
    - Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

[3] S. 561.01(6), F.S., provides that the "The Beverage Law" includes chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

[4] *See* s. 561.14, F.S.

in the Department of Business and Professional Regulation (DBPR) administers and enforces the Beverage Law.[5]

Since the repeal of Prohibition, regulation of alcohol in the United States has traditionally been based upon what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages.[6] The manufacturer creates the beverages, the distributor obtains the beverages from the manufacturer and then delivers to the vendor, and the vendor makes the ultimate sale to the consumer.[7]

The license and registration classifications used in the Beverage Law include the following:

- "Manufacturers" are those "licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute."
- "Distributors" are those "licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages."
- "Vendors" are those "licensed to sell alcoholic beverages at retail only" and may not "purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law."[8]

It is unlawful for any vendor to employ any person under 18 years of age,[9] with the following exceptions:[10]

- Professional entertainers 17 years of age who are not in school.
- Minors employed in the entertainment industry, under certain circumstances.
- Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.
- Persons 17 years of age or over or any person who is a graduate of or a senior in high school, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties might lead to further advancement in food service establishments.
- Persons under the age of 18 years employed as bellhops, elevator operators, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.
- Persons under the age of 18 years employed in bowling alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.
- Persons under the age of 18 years employed by a bona fide dinner theater, as long as their employment is limited to the services of an actor, actress, or musician.
- Persons under the age of 18 years who are employed at a theme park, provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

However, a minor to whom these exceptions otherwise apply may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity,[11] on the part of the minor and such nudity is intended as a form of adult entertainment.[12]

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[5] S. 561.02, F.S.
[6] Section 561.01, F.S., defines "alcoholic beverages" as "distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume."
[7] S. 561.14, F.S.
[8] S. 561.14, F.S.
[9] S. 562.13(1), F.S.
[10] S. 562.13(2), F.S.
[11] S. 847.001(11), F.S., defines "nudity" as the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.
[12] *Id*.

Human Trafficking

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.[13] While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.[14]

Florida law defines "human trafficking" as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,[15] purchasing, patronizing, procuring, or obtaining[16] another person for the purpose of exploitation of that person.[17]

Human trafficking includes two types of exploitation: commercial sexual exploitation (CSE) and forced labor.[18] In 2022, according to the Department of Children and Families, 354 youth were verified as victims of commercial sexual exploitation (CSE) in Florida. The number has decreased from 2021, when 379 youth were verified.[19]

Soliciting or Purchasing Prostitution

Section 796.07, F.S., defines prostitution as the giving or receiving of the body for sexual activity for hire.[20]

Section 796.03, F.S., provides that a person who procures for prostitution, or causes to be prostituted, any person who is under the age of 18 years commits a felony of the second degree.

Under s. 796.07(2)(a)-(e) and (g)-(i), F.S., it is a second-degree misdemeanor:[21]

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness,[22] assignation,[23] or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to

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[13] Section 787.06, F.S.
[14] *Id*.
[15] Section 787.06(2)(f), F.S., provides "maintain" means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines "services" as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.
[16] Section 787.06(2)(g), F.S., provides "obtain" means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides "labor" means work of economic or financial value.
[17] S. 787.06(2)(d), F.S.
[18] S. 787.06, F.S.
[19] Office of Program Policy Analysis & Government Accountability, *Annual Report on Commercial Sexual Exploitation of Children in Florida, 2023*, available at https://oppaga.fl.gov/Documents/Reports/23-08.pdf (last visited December 13, 2023).
[20] This definition excludes sexual activity between spouses. s. 796.07(1)(b), F.S.
[21] A second-degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding $500. Sections 775.082(4)(b) and 775.083(1)(e), F.S
[22] "Lewdness" means any indecent or obscene act. S. 796.07(1)(c), F.S
[23] "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. S. 796.07(1)(d), F.S.

believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.[24]

Additionally, under s. 796.07(2)(f), F.S., a person who solicits, induces, entices, or procures another person to commit prostitution, lewdness, or assignation commits a first-degree misdemeanor for a first violation, a third-degree felony for a second violation, and a second-degree felony for a third or subsequent violation.[25] An offender convicted for soliciting another person to commit prostitution is also subject to additional penalties including:
- One hundred hours of community service;[26]
- Being required to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such a program is offered in the circuit in which the offender is sentenced;[27]
- A 10-day mandatory minimum jail sentence for a second or subsequent violation;[28]
- Vehicle impoundment up to 60 days if the offender used a car to commit the violation;[29]
- Inclusion of the offender's name on the Soliciting for Prostitution Public Database in certain situations;[30] and
- A $5,000 civil fine.[31]

Child Exploitation Offenses

The following crimes are related to child exploitation:
- Using a Child in Sexual Performance:
  - Section 827.071(2), F.S., prohibits a person from, knowing the character and content thereof, employing, authorizing, or inducing a child to engage in a sexual performance; or being a parent, legal guardian, or custodian of such child, consenting to the participation by such child in a sexual performance. A violation for using a child in a sexual performance is a second degree felony.[32]
- Promoting a Sexual Performance by a Child:
  - Under s. 827.071(3), F.S., a person commits a second degree felony if, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child.
- Possessing Child Pornography with Intent to Promote:
  - Under s. 827.071(4), F.S., a person commits a second degree felony if he or she possesses with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes child pornography. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote.
- Protection of Minors:

[24] S. 796.07(2), F.S.
[25] S. 796.07(2)(f) and (5)(a), F.S.
[26] S. 796.07(5)(b)1., F.S.
[27] S. 796.07(5)(b)2., F.S.
[28] S. 796.07(5)(c), F.S.
[29] S. 796.07(5)(d), F.S.
[30] S. 796.07(5)(e), F.S.
[31] S. 796.07(6), F.S.
[32] A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Ss. 775.082, 775.083, or 775.084, F.S

- Section 847.0133, F.S., provides that a person may not knowingly sell, rent, loan, give away, distribute, transmit, or show any obscene material to a minor. A violation of the prohibition is a third degree felony.

Section 827.071, F.S., defines the following relevant terms:

- "Child pornography" means any image depicting a minor engaged in sexual conduct, or any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.[33]
- "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.[34]
- "Sexual performance" means any performance or part thereof which includes sexual conduct by a child.[35]

Section 874.001, F.S., defines "obscene" as the status of material which:

- The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
- Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and
- Taken as a whole, lacks serious literary, artistic, political, or scientific value.
- A mother's breastfeeding of her baby is not under any circumstance "obscene."

Minors Working in the Entertainment Industry

The Florida Department of Business and Professional Regulation, Division of Regulation, administers and enforces the state's Child Labor Law[36] through its Child Labor Program[37] to provide a program of education, enforcement, and administrative initiatives designed to achieve full compliance in the enforcement of Child Labor laws and ensure the health, education and welfare of Florida's working minors."[38] The Child Labor law includes restrictions on children working the entertainment industry.[39] The Child Labor law provides the following prohibition to prevent minors being exploited and becoming victims of human trafficking:[40]

- A person **under the age of 18**, whether or not such person's disabilities of nonage have been removed by marriage or otherwise, **may not be employed**, permitted, or suffered to work in an **adult theater**, as defined in s. 847.001(2)(b), F.S.

The Child Labor Law provides the following penalties for violations:[41]

- Second degree misdemeanor, punishable by up to 60 days in prison[42] and a $500 fine.[43]

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[33] S. 827.071(1)(b), F.S.
[34] A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct." S. 827.071(1)(l), F.S.
[35] "Performance" means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience. S 827.071(1)(m) and (g), F.S.
[36] *See* ss. 450.001-450.165, F.S.
[37] Section 450.155, provides that Child Labor Law program appropriations made by the Legislature shall be used to carry out the proper responsibilities of administering the Child Labor Law, to protect the working youth of the state, and to provide education about the Child Labor Law to employers, public school employees, the general public, and working youth.
[38] Florida Department of Business and Professional Regulation, *Child Labor*, http://www.myfloridalicense.com/DBPR/child-labor/ (last visited Dec. 3, 2023).
[39] S. 450.012(5), F.S.
[40] S. 450.021(5), F.S.
[41] S. 450.141(1), F.S.
[42] S. 775.082, F.S.
[43] S. 775.083, F.S.

    - Each day during which any violation of this law continues, and the employment of any minor in violation of the law, constitutes a separate and distinct offense.
- Second degree felony, punishable by up to 15 years in prison,[44] a $10,000 fine,[45] or up to 30 years in prison for habitual offenders[46] any person who:[47]
    - Takes, receives, hires, employs, uses, exhibits, or, in any manner or under any pretense, causes or permits any child less than 18 years of age to suffer;
    - Inflicts upon any such child unjustifiable physical pain or mental suffering;
    - Willfully causes or permits the life of any such child to be endangered or his or her health to be injured or such child to be placed in such situation that his or her life may be endangered or health injured; or
    - Has in custody any such child for any of these purposes.

Local Government Prohibitions on Minors in Adult Entertainment Establishments

In general, counties and municipalities have the power to enforce zoning and such business regulations that are necessary for the protection of the public.[48]

Local governments around the state limit minors from working in an adult entertainment establishment. For example, an Orange County ordinance provides that it is unlawful for an operator or worker of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer, or allow:[49]

- Admittance to the establishment of a person under 18 years of age;
- A person under 18 years of age to remain at the establishment;
- A person under 18 years of age to purchase goods or services at the establishment; or
- A person to work at the establishment as a worker who is under 18 years of age.

Employee Age Minimums for Adult Entertainment Establishments

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. Some of these laws have been challenged, and some courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments.

In *Jane Doe I v. Landry*, the United States Court of Appeals, Fifth Circuit upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution.[50]

The Court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between Louisiana statutes that prohibited women aged 18 to 21 years old from nude erotic dancing in establishments that served alcohol and curbing the secondary effects of human trafficking and prostitution such that the statutes furthered substantial governmental interest, as required for statutes to survive intermediate scrutiny on erotic dancers' First Amendment free speech challenge.[51]

In *Valadez v. Paxton*, the United States District Court, W.D. Texas, Austin Division holding that the State of Texas sufficiently demonstrated that it held reasonable belief that the law prohibiting all working relationships between persons between the ages of 18 and 20 years old and sexually-oriented

[44] S. 775.082, F.S.
[45] S. 775.083, F.S.
[46] S. 775.084, F.S.
[47] S. 450.151, F.S.
[48] S. 125.01(1)(h), F.S.; s. 166.042. F.S.
[49] Ch. 3 § 3-131, Orange County Code of Ordinances.
[50] *Doe I v. Landry*, 909 F.3d 99, 109 (5th Cir. 2018).
[51] *Id*.

businesses would serve to curb harmful secondary effects of sexually-oriented businesses, including trafficking and sexual exploitation.[52]

The United States District Court denied a motion for a preliminary injunction against the enforcement of the Texas bill prohibiting "all working relationships between 18-20 year old's and sexually-oriented businesses" because the plaintiff's failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking.[53]

In *DC Operating, LLC v. Paxton*, the United States District Court, W.D. Texas, Austin Division, denied a motion for a preliminary injunction in part, finding that the state's recently enacted bill relating to restrictions on the age of person employed by or allowed on the premises of a sexually oriented business is rationally related to the state's interest in curbing human trafficking.[54] The Court ruled that the plaintiff's failed to establish a likelihood of success on the merits of their claims under the First Amendment, Fourteenth Amendment Due Process and Equal Protection Clauses of the United States Constitution, and Texas Constitution's equivalent provisions.[55]

In *Wacko's Too, Inc. v. City of Jacksonville*, the United States District Court, M.D. Florida, upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking.[56] The city ordinance provisions forbid anyone under age 21 from receiving the requisite license to perform at adult entertainment establishments in the city. The Eleventh Circuit upheld the requirement that adult entertainment establishments maintain rosters as a "permissible way to keep track of licensed performers, secondary to combating human trafficking."[57] The performer disclosure requirement under the ordinance also relates to preventing human trafficking by allowing law enforcement to keep track of performers.

General Employment Restrictions for Minors

Florida law prohibits minors under 18 years-of-age, whether such person's disabilities of nonage have been removed, from being employed or permitted or suffered to work in any of the following places of employment or in any of the following occupations:[58]

- In or around explosive or radioactive materials.
- On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.
- Any mining occupation.
- In the operation of power-driven woodworking machines.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In the operation of power-driven hoisting apparatus.
- In the operation of power-driven metal forming, punching, or shearing machines.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. s. 570.61(c), F.S.

[52] *Valadez v. Paxton*, 553 F. Supp.3d 387 (W.D. Tex. 2021).
[53] *Id*.
[54] *Dc Operating, LLC v. Paxton*, 586 F.Supp.3d 554, 572 (W.D. Tex. 2022).
[55] *Id*.
[56] *Wacko's Too Inc. v. City of Jacksonville*, 658 F.Supp.3d 1086 (11th Cir. 2023).
[57] *Id*. at 1127.
[58] S. 450.061(2), F.S.

    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- In the operation of power-driven bakery machinery.
- In the operation of power-driven paper products and printing machines.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Manufacturing brick, tile, and like products.
- Wrecking or demolition.
- Excavation operations.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Logging or sawmilling.
- Working on electric apparatus or wiring.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Firefighting.
    - Does not apply to the employment of student learners under the conditions prescribed in s. 450.161, F.S.
- Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

Florida law prohibits the employment of minors under 18 years-of-age, whether such person's disabilities of nonage have been removed by marriage or otherwise, from being employed or permitted or suffered to work in any place of employment or at any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such places of employment or occupations may be determined and declared by the department to be hazardous and injurious.

These prohibitions do not apply to minors employed in the entertainment industry.[59]

Effect of the Bill

The bill creates s. 787.30, F.S., a crime which provides that a person may not knowingly employ any person younger than 21 years in any adult entertainment establishment.

The bill provides that a person who violates the prohibition on employing anyone under 21 years of age at an adult entertainment establishment a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The bill removes the provision prohibiting minors from being employed by an alcohol vendor if the employment, whether as a professional entertainer or otherwise, involves nudity, on the part of the minor and such nudity is intended as a form of adult entertainment.

The bill makes the following findings:
- Florida is ranked third nationally for reported cases of human trafficking abuses, many of which involved sex trafficking, and
- Adult entertainment establishments are widely recognized as being a significant part of the sex trafficking network used by traffickers to coerce and facilitate men, women, and children into performing sexual acts, which places the employees of these establishments in direct and frequent contact with the victims of human trafficking, and
- Victims of sex trafficking are frequently recruited to work as performers or employees in adult entertainment establishments, and
- Researchers have found that sex trafficking victims are more likely to be trafficked by someone from within her or his own community, and

[59] S. 450.061(4), F.S.

- Persons younger than 21 years are more likely to still remain within and dependent on the community in which they were raised, and
- Research studies have identified the average age at which a person in the United States enters the sex trade for the first time is age 17, and
- Sex trade at adult entertainment establishments is a common occurrence in Florida, thereby subjecting performers at these establishments to frequent propositions and enticements to engage in sex trade actions and sex trafficking from customers, as well as strip club employees, managers, and owners, and
- An understanding of history and human nature reveals that there are sex criminals of various kinds who will prey on the young and vulnerable, and
- Restricting the employment of persons younger than 21 years of age at adult entertainment establishments furthers an important state interest of protecting those vulnerable individuals from sex trafficking, drug abuse, and other harm, and
- Many court opinions recognize that while expressive activities are entitled to some First Amendment protections at adult entertainment establishments, content neutral restrictions or regulations intended to minimize the secondary harmful effects of those businesses tend to be upheld, and
- On November 16, 2018, the federal Fifth Circuit Court of Appeals, in the case of *Jane Doe I v. Landry*, reported at 909 F.3d 99 (5th Cir. 2018), upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution, and
- The federal district court in *Valadez v. Paxton*, 553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a preliminary injunction against the enforcement of Texas Senate Bill 315 prohibiting "all working relationships between 18-20-year-olds and sexually-oriented businesses" because the plaintiffs failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking, and
- The federal district court in *DC Operating, LLC v. Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for a preliminary injunction against Texas Senate Bill 315, at least in part, because of the state's evidence of the correlation between raising the minimum employment age and reducing human trafficking, and
- The federal district court in *Wacko's Too, Inc., v. City of Jacksonville*, 658 F.Supp.3d 1086 (M.D. Fla. 2023), upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 562.13, F.S.; removing an exception.
Section 2: Creates s. 787.30, F.S.; providing criminal penalties for certain employment activities.
Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate impact on adult businesses who may not hire people under 21 years of age.

D. FISCAL COMMENTS:

The bill may have a positive impact on jail and prison beds by creating new felony offenses relating to construction fraud, which may result in increased admissions to such facilities.

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:

The First Amendment of the U.S. Constitution prevents the government from creating laws that restrict the speech of citizens.[60] "Congress shall make no law ... abridging the freedom of speech." The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.

The state has a compelling interest in safeguarding the community and children from trafficking and sexual exploitation. A statute regulating conduct with incidental effects on speech can be a reasonable restriction if, among other things, it is narrowly tailored to serve substantial government interests.[61]

A Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age was upheld on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution.[62]

3. RULE-MAKING AUTHORITY:

None.

4. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[60] U.S. Const., amend I.
[61] *Id*.
[62] *Doe I v. Landry*, 909 F.3d 99, at 109.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to human trafficking; amending s. 562.13, F.S.; revising applicability; creating s. 787.30, F.S.; prohibiting the employment of persons younger than 21 years of age in adult entertainment establishments; providing criminal penalties; providing an effective date.

WHEREAS, Florida is ranked third nationally for reported cases of human trafficking abuses, many of which involved sex trafficking, and

WHEREAS, adult entertainment establishments are widely recognized as being a significant part of the sex trafficking network used by traffickers to coerce and facilitate men, women, and children into performing sexual acts, which places the employees of these establishments in direct and frequent contact with the victims of human trafficking, and

WHEREAS, victims of sex trafficking are frequently recruited to work as performers or employees in adult entertainment establishments, and

WHEREAS, researchers have found that sex trafficking victims are more likely to be trafficked by someone from within her or his own community, and

WHEREAS, persons younger than 21 years are more likely to still remain within and dependent on the community in which they

were raised, and

WHEREAS, research studies have identified the average age at which a person in the United States enters the sex trade for the first time is age 17, and

WHEREAS, sex trade at adult entertainment establishments is a common occurrence in Florida, thereby subjecting performers at these establishments to frequent propositions and enticements to engage in sex trade actions and sex trafficking from customers, as well as strip club employees, managers, and owners, and

WHEREAS, an understanding of history and human nature reveals that there are sex criminals of various kinds who will prey on the young and vulnerable, and

WHEREAS, restricting the employment of persons younger than 21 years of age at adult entertainment establishments furthers an important state interest of protecting those vulnerable individuals from sex trafficking, drug abuse, and other harm, and

WHEREAS, many court opinions recognize that while expressive activities are entitled to some First Amendment protections at adult entertainment establishments, content neutral restrictions or regulations intended to minimize the secondary harmful effects of those businesses tend to be upheld, and

WHEREAS, on November 16, 2018, the federal Fifth Circuit Court of Appeals, in the case of *Jane Doe I v. Landry*, reported

at 909 F.3d 99 (5th Cir. 2018), upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution, and

WHEREAS, the federal district court in *Valadez v. Paxton*, 553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a preliminary injunction against the enforcement of Texas Senate Bill 315 prohibiting "all working relationships between 18-20-year-olds and sexually-oriented businesses" because the plaintiffs failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking, and

WHEREAS, the federal district court in *DC Operating, LLC v. Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for a preliminary injunction against Texas Senate Bill 315, at least in part, because of the state's evidence of the correlation between raising the minimum employment age and reducing human trafficking, and

WHEREAS, the federal district court in *Wacko's Too, Inc., v. City of Jacksonville*, 658 F.Supp.3d 1086 (M.D. Fla. 2023), upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age

restrictions would further the City's interest in preventing human and sex trafficking, NOW, THEREFORE,

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

Section 1. Section 562.13, Florida Statutes, is amended to read:

562.13 Employment of minors or certain other persons by certain vendors prohibited; exceptions.—

(1) Unless otherwise provided in this section, it is unlawful for any vendor licensed under the Beverage Law to employ any person under 18 years of age.

(2) This section shall not apply to:

(a) Professional entertainers 17 years of age who are not in school.

(b) Minors employed in the entertainment industry, as defined by s. 450.012(5), who have either been granted a waiver under s. 450.095 or employed under the terms of s. 450.132 or under rules adopted pursuant to either of these sections.

(c) Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.

(d) Persons 17 years of age or over or any person

furnishing evidence that he or she is a senior high school student with written permission of the principal of said senior high school or that he or she is a senior high school graduate, or any high school graduate, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties are of such nature as to provide them with training and knowledge as might lead to further advancement in food service establishments.

(e) Persons under the age of 18 years employed as bellhops, elevator operators, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.

(f) Persons under the age of 18 years employed in bowling alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.

(g) Persons under the age of 18 years employed by a bona fide dinner theater as defined in this paragraph, as long as their employment is limited to the services of an actor, actress, or musician. For the purposes of this paragraph, a dinner theater means a theater presenting consecutive productions playing no less than 3 weeks each in conjunction

with dinner service on a regular basis. In addition, both events must occur in the same room, and the only advertised price of admission must include both the cost of the meal and the attendance at the performance.

(h) Persons under the age of 18 years who are employed in places of business licensed under s. 565.02(6), provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

~~However, a minor to whom this subsection otherwise applies may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity, as defined in s. 847.001, on the part of the minor and such nudity is intended as a form of adult entertainment.~~

(3)(a) It is unlawful for any vendor licensed under the beverage law to employ as a manager or person in charge or as a bartender any person:

1. Who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state.

2. Who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or any felony violation of chapter 893 or the controlled substances act of any other state or the

Federal Government.

3. Who has, in the last past 5 years, been convicted of any felony in this state, any other state, or the United States.

The term "conviction" shall include an adjudication of guilt on a plea of guilty or nolo contendere or forfeiture of a bond when such person is charged with a crime.

(b) This subsection shall not apply to any vendor licensed under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a).

Section 2. Section 787.30, Florida Statutes, is created to read:

787.30 Employing persons under the age of 21 years in adult entertainment establishments prohibited.—

(1) A person may not knowingly employ any person younger than 21 years in any adult entertainment establishment, as defined in s. 847.001.

(2) A person who violates subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. This act shall take effect July 1, 2024.

HB 1419

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1419 Department of Commerce
SPONSOR(S): Tuck
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1420

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

SUMMARY ANALYSIS

The bill provides for the following changes that all impact the Department of Commerce (Commerce):

- Provides that if the local government doesn't hold a second public hearing and adopt a comprehensive plan amendment within 180 days after Commerce provides comments, the amendment is deemed withdrawn; and provides that comprehensive plan amendments are deemed withdrawn if the local government fails to transmit the comprehensive plan amendment to Commerce within 10 working days after the final adoption hearing.
- Deletes requirement that the Florida Sports Foundation must continue amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.
- Requires Commerce to establish a direct-support organization (DSO); renames the Florida Defense Support Task Force; provides for organizational composition; revises the mission of the DSO; requires the DSO to operate under a contract with Commerce; revises the due date for the annual report; and provides a repeal date of October 1, 2029.
- Revises the term "businesses" to include healthcare facilities and allied health care opportunities, and revises the funding priority purposes to provide that health care facilities, in addition to hospitals, operated by nonprofit or local government entities that provide opportunities in health care, are eligible for the funding under the Incumbent Worker Training Program.
- Specifies that board members of the Workforce Innovation and Opportunity Act are voting members of the state workforce development board.
- Requires the Secretary of Commerce, rather than the Governor, to appoint commissioners of deeds who authenticate acknowledgements in certain real estate transactions outside of Florida, but within the United States, and outside of the United States or within foreign countries.
- Specifies that a homeowner's association's proposed revived declaration of covenants and articles of incorporation and bylaws must be submitted to Commerce within 60 days after obtaining valid written consent from a majority of the affected parcel owners, or within 60 days after the date the documents are approved by affected parcel owners by a vote at a meeting.

The bill does not have a fiscal impact on state or local government revenues or local government expenditures. The bill may increase state expenditures. *See* Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida Defense Support Task Force

Present Situation

In 2011,[1] the Legislature created the Florida Defense Support Task Force (Task Force) with the mission to make recommendations to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.[2]

The task force is comprised of the Governor, or his or her designee, and 12 members comprised of four members appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, respectively. Task Force members represent defense-related industries or communities that host military bases and installations.[3] With the exception of Legislative members, Task Force members serve for a term of four years. Vacancies are to be filled for the remainder of the unexpired term in the same manner as the initial appointment. Legislative members serve until the expiration of their legislative term and may be reappointed once. All members are eligible for reappointment.[4] The President and the Speaker each designate one of their appointees to serve as chair and the chair must rotate each July 1.[5] The Secretary of the Department of Commerce, or his or her designee, serves as the ex officio, nonvoting executive director.[6]

The Department of Commerce (Commerce) is required to contract with the task force for the expenditure of appropriated funds, which may be used by the task force for:

- Economic and product research and development;
- Joint planning with host communities to accommodate military missions and prevent base encroachment;
- Advocacy on the state's behalf with federal civilian and military officials;
- Assistance to school districts in providing a smooth transition for large numbers of additional military-related students;
- Job training and placement for military spouses in communities with high proportions of active duty military personnel; and
- Promotion of the state to military and related contractors and employers.[7]

The Task Force must submit an annual progress report and work plan to the Governor, the President, and the Speaker each February 1.[8]

Effect of the Bill

The bill requires Commerce to establish a direct-support organization (DSO) to support Florida's military and defense industries and communities, and renames the Florida Defense Support Task Force as the DSO. The DSO must operate under a contract with Commerce which must provide that:

[1] Chapter 2011-76, s. 38, Laws of Fla.
[2] Section 288.987(2), F.S.
[3] Section 288.987(3), F.S.
[4] Section 288.987(3), F.S.
[5] Section 288.987(4), F.S.
[6] Section 288.987(5), F.S., actually states that the Secretary of Economic Opportunity serves as the ex officio, nonvoting executive director; however, HB 5 from 2023 (enacted as Chapter 2023-173, Laws of Fla.) changed the name of the Department of Economic Opportunity to the Department of Commerce.
[7] Section 288.987(7), F.S.
[8] Section 288.987(6), F.S.

- Commerce may review the DSO's articles of incorporation;
- The DSO must submit an annual budget proposal to Commerce;
- Any DSO funds held in a trust must revert to the state upon the expiration or cancellation of the contract; and
- The DSO is subject to an annual compliance review by Commerce.

The bill states that the DSO fiscal year begins on July 1 and ends on June 30 of the next succeeding year. The DSO must also provide an annual financial audit.

The bill specifies that, under certain provisions of law, the DSO is not an agency for purposes of leasing buildings or for bids for printing. However, the DSO must comply with per diem and travel expense requirements. Commerce may allow the DSO to use the property, facilities, personnel, and services of Commerce if the DSO provides equal employment opportunities to all persons regardless of race, color, religion, sex, or national origin.

The bill revises the mission of the DSO. In addition to carrying out the provisions of the Task Force under current law, the DSO must assist with the coordination of economic and workforce development efforts in military communities and assist in the planning and research and development related to military missions, businesses, and military families. Additionally, the DSO is organized and operated to:

- Request, receive, hold, invest, and administer property;
- Manage and make expenditures for the operation of the activities, services, functions, and programs for economic and product research and development,
- Conduct joint planning with host communities to accommodate military missions and prevent base encroachment,
- Advocate on the state's behalf with federal civilian and military officials;
- Assist school districts in providing a smooth transition for additional military-related students;
- Provide job training and placement for military spouses in communities with high proportions of active duty military personnel; and
- Promote of the state to military and related contractors and employers.

Under the bill, the DSO must be governed by a board of directors composed of the Governor, or his or her designee, four members appointed by the Governor, the President, and the Speaker. All appointments in place as of July 1, 2024, must continue in effect until the expiration of the term. The President and the Speaker each designate one of their appointees to serve as chair for a 2-year term and the chair must rotate on July 1 of each odd-numbered year.

In the performance of its duties, the bill authorizes the DSO to make and enter into contracts as necessary to carry out its mission. A proposed contract with a total cost of $750,000 or more is subject to the noticing, review, and objection procedures provided in current law. The DSO may not divide one proposed contract with a total cost of $750,000 or more into multiple contracts to circumvent the prohibition. If the contract is contrary to legislative policy and intent, the DSO is prohibited from entering into such contract. The DSO is also authorized to establish grant programs and administer grant awards to support its mission.

The bill changes the due date for an annual report from February 1 to December 1.

Under the bill, unless the section establishing the DSO is reviewed and saved from repeal by the Legislature, the DSO is repealed on October 1, 2029.

Comprehensive Plans

Present Situation

The Community Planning Act (Act), codified in Part II of Ch. 163, F.S., promotes the establishment and implementation of comprehensive planning programs to guide and manage a local government's

development.[9] Through the comprehensive planning process, the Legislature intended that local governments:

- Preserve, promote, protect, and improve public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare;
- Facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and
- Conserve, develop, utilize, and protect natural resources within their jurisdictions.[10]

To that end, the Act requires each local government to adopt and maintain a comprehensive plan that must provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area.[11] Specifically, the comprehensive plan must:

- Identify programs and activities for ensuring the comprehensive plan's implementation;
- Establish meaningful and predictable standards for land use and development and meaningful guidelines for the adoption of detailed land development regulations;[12] and
- Consist of elements set out in statute that must be based upon relevant and appropriate data and an analysis by the local government that may involve surveys, studies, community goals and vision, and other data available at the plan's adoption or amendment.[13]

The state land planning agency that administers these provisions is Commerce.[14]

Comprehensive Plan Adoption

Each of Florida's counties and municipalities has a comprehensive plan.[15] However, a newly-incorporated municipality must follow the state coordinated review process to adopt a comprehensive plan, which process begins with an initial public hearing during which the municipality's governing body decides whether to transmit the plan to the reviewing agencies;[16] such decision must be by an affirmative vote of at least a majority of the governing body's members present at the hearing.[17] The municipality must then, within 10 working days of the hearing, transmit the proposed comprehensive plan to:

- The reviewing agencies for comment or, if the reviewing agency is the state land planning agency, for the production of the state land planning agency's statutorily-required report;[18] and
- Any other local government or government agency that filed a written request for a copy of the plan with the municipality.[19]

Within 180 days after receipt of the state land planning agency's report, the municipality must hold a second public hearing to determine whether to adopt the comprehensive plan; such determination must

[9] S. 163.3161(2), F.S.
[10] S. 163.3161(4), F.S.
[11] S. 163.3177(1) and (2), F.S.
[12] "Land development regulations" means ordinances enacted to regulate any land development aspect, including zoning, rezoning, subdivision, building construction, and sign regulation. Within one year after submitting a new or revised comprehensive plan, a local government must adopt or amend and enforce land development regulations that are consistent with the plan. S. 163.3164(26), F.S.
[13] A comprehensive plan may also consist of optional elements. S. 163.3177(1), F.S.
[14] S. 163.3221(14), F.S.
[15] For the purposes of the Act, a county's authority extends to the total unincorporated area under its jurisdiction and to such unincorporated areas not included in a joint agreement with a municipality. A municipality's authority extends to the total area under its jurisdiction and adjacent unincorporated areas included in a joint agreement with the county. S. 163.3171(1) and (2), F.S.; Fla. Dept. of Environmental Protection, *Comprehensive Plan*, https://floridadep.gov/oip/oip/content/comprehensive-plan (last visited Jan. 27, 2024).
[16] "Reviewing agencies" means the state land planning agency; the appropriate regional planning council and water management district; the Florida Departments of Environmental Protection, State, and Transportation; the Florida Department of Education, if the plan amendment relates to public schools; the commanding officer of any affected military installation; the Florida Fish and Wildlife Conservation Commission and Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and the county in which the municipality is located, in the case of municipal plans or plan amendments. S. 163.3184(1), F.S.
[17] S. 163.3184(2), (4), and (11), F.S.
[18] If the state land planning agency reviews a proposed comprehensive plan, it must issue a report stating its objections, recommendations, and comments about the plan within 60 days of the plan's transmission to the agency. The state land planning agency is the Department of Economic Opportunity. S. 163.3184(4), F.S.; Fla. Dept. of Economic Opportunity, *Community Planning, Development, and Services*, https://floridajobs.org/community-planning-and-development (last visited Jan. 27, 2023).
[19] S. 163.3184(4), F.S.

be by an affirmative vote of at least a majority of the governing body's members present at the hearing.[20] An adopted comprehensive plan, along with the supporting data and analyses, must be transmitted within 10 working days of the adoption hearing to the state land planning agency and any other agency or local government that provided timely comments.[21] The state land planning agency then reviews the package for completeness and publishes a notice of intent to find that the plan complies or does not comply with the Act.[22] A comprehensive plan takes effect pursuant to the notice of intent.[23]

Comprehensive Plan Amendment

Comprehensive plan amendments are generally governed by the state expedited review process, which process typically begins with an initial public hearing during which the local government's governing body decides whether to transmit the proposed amendment to the reviewing agencies; such decision must be by an affirmative vote of at least a majority of the governing body's members present at the hearing.[24] Within 10 working days of such hearing, the local government must transmit the plan amendment and appropriate supporting data and analyses to the reviewing agencies for expedited comment[25] and to any other local government or governmental agency that filed a written request for such transmittal with the local government.[26] Interested persons may also provide the local government with written or oral comments, recommendations, or objections to the plan amendment.[27]

Within 180 days after receipt of agency comments, the local government must generally hold a second public hearing to determine whether to adopt the plan amendment.[28] However, where the proposed plan amendment is a small-scale development amendment,[29] the local government must hold only the public adoption hearing; an initial public hearing is not required.[30] In either case, plan amendment adoption must be by an affirmative vote of at least a majority of the governing body's members present at the hearing, and failure to hold a timely adoption hearings causes the amendment to be deemed withdrawn unless the timeframe is extended by agreement with specified notice to the state land planning agency and other parties.[31]

Within 10 working days of the adoption hearing, the local government must transmit the plan amendment to the state land planning agency and any affected person who provided timely comments on the amendment.[32] The state land planning agency must review the amendment package for any deficiencies and send notice of such deficiencies to the local government within five working days of receipt of the amendment package.[33] If no deficiencies are found, the amendment takes effect 31 days after the state land planning agency notifies the local government that the amendment package is complete.[34]

Effect of the Bill

[20] S. 163.3184(4) and (11), F.S.
[21] S. 163.3184(4), F.S.
[22] *Id.*
[23] *Id.*
[24] The state coordinated review process applies to plan amendments that are in an area of critical state concern; propose a rural land stewardship area; propose a sector plan or an amendment to an adopted sector plan; or update a comprehensive plan based on an evaluation and appraisal. S. 163.3184(4) and (11), F.S.
[25] The expedited review process is set out in s. 163.3184(3), F.S.
[26] S. 163.3184(3), F.S.
[27] *Id.*
[28] *Id.*
[29] A "small-scale development amendment" involves a use of 50 acres or fewer; only proposes a land use change to the future land use map for a site-specific small-scale development activity; and applies to property not located within an area of critical state concern, absent an exception related to affordable housing development. *Id.*
[30] Ss. 163.3184(2) and 163.3187(2), F.S.
[31] S. 163.3184(3), (4), and (11), F.S.
[32] *Id.*
[33] *Id.*
[34] *Id.*

The bill provides that if the local government doesn't hold a second public hearing and adopt a comprehensive plan amendment within 180 days after Commerce provides comments, the amendment is deemed withdrawn.

The bill provides that if the local government fails to transmit the comprehensive plan amendment to Commerce within 10 working days after the final adoption hearing, the amendment is deemed withdrawn.

Florida Sports Foundation

Present Situation

The Florida Sports Foundation is a 501(c)(3) non-profit corporation, serving as the official sports promotion and development organization for the State of Florida. It is charged with the promotion and development of professional, amateur, and recreational sports, physical fitness opportunities, and assisting communities and host organizations in attracting major and minor sports events to help produce a thriving Florida sports industry and environment.[35] Under its duty to promote amateur sports and physical fitness, the Florida Sports Foundation must continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.[36]

Effect of the Bill

The bill removes an outdated requirement that the Florida Sports Foundation must continue amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports.

Florida Defense Support Task Force Public Records and Meetings Exemption

Present Situation

Current law provides a public record exemption for certain records held by the Task Force. Specifically, the following records are exempt[37] from public records requirements:[38]

- That portion of a record that relates to strengths and weaknesses of military installations or military missions in Florida relative to the selection criteria for the realignment and closure of military bases and missions under the United States base realignment and closure (BRAC) process.
- That portion of a record that relates to strengths and weaknesses of military installations or military missions in other state or territories and the vulnerability of such installations or missions to base realignment or closure under the United States BRAC process, and any agreements or proposals to relocate or realign military units and missions from other states or territories.
- That portion of a record that relates to Florida's strategy to retain its military bases during any United States BRAC process and any agreements or proposals to relocate or realign military units and missions.

Current law also provides a public meeting exemption for any portion of a meeting of the Task Force, or a workgroup of the Task Force, wherein such exempt records are presented or discussed.[39] In addition,

[35] S. 288.1229, F.S.
[36] S. 288.1229(7)(g), F.S.
[37] There is a difference between records the Legislature designates exempt from public record requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Op. Att'y Gen. Fla. 04- 09 (2004).
[38] S. 288.985(1)(a)-(c), F.S.

any records generated during the closed portion of the meeting are exempt from public record requirements.[40]

Effect of the Bill

The bill makes conforming changes to the public records exemption by changing the custodian of the records to the direct-support organization created in s. 288.987, F.S.

Incumbent Worker Training Program and CareerSource Florida, Inc.

Present Situation

Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.[41] WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.[42]

WIOA identifies four core programs that coordinate and complement each other to ensure job seekers have access to needed resources.[43] The core programs are:

- Adult, Dislocated Worker and Youth Programs;
- Adult Education and Literacy Activities;
- Employment Services under the Wagner-Peyser Act;[44] and
- Vocational Rehabilitation Services.[45]

WIOA establishes minimum performance accountability measures for the evaluation of core programs in each state and performance reports to be provided at the state, local, and training provider levels.[46] Performance measures that apply across all core programs include:[47]

- The percentage of participants in unsubsidized employment during second quarter after exit.
- The percentage of participants in unsubsidized employment during fourth quarter after exit.
- The median earnings of participants during second quarter after exit.
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit.
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.

State Administration of Workforce Development

WIOA requires the Governor to establish a State Workforce Development Board (state board) to assist the Governor in carrying out the duties and responsibilities required by WIOA.[48] CareerSource Florida, Inc., implements the policy directives of the state board and administers state workforce development programs.[49] CareerSource Florida, Inc., provides administrative support to the state board, the principal workforce policy organization for the state. WIOA state board members are nonvoting and the number of members is determined by the Governor.[50]

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[39] S. 288.985(2), F.S.
[40] S. 288.985(3), F.S.
[41] Workforce Innovation and Opportunity Act, 29 U.S.C. s. 3101 et seq. (2014).
[42] *See* 29 U.S.C. s. 3112(a).
[43] *See* 29 U.S.C. s. 3102(13).
[44] *See* 29 U.S.C. s. 49 et seq.
[45] *See* 29 U.S.C. s. 720 et. seq.
[46] *See* 29 U.S.C. s. 3141.
[47] *Id.*
[48] 29 U.S.C. s. 3111.
[49] S. 445.004(2), F.S.
[50] S. 445.004(3)(a), F.S.

WIOA requires states to designate local workforce development areas in the state. The local workforce development areas must be consistent with labor market areas and regional economic development areas in the state and have available federal and non-federal resources necessary to effectively administer workforce development services.[51] Within each area, a local workforce development board must be established.[52] Each local workforce development board is required to coordinate planning and service delivery strategies within the local workforce development area and submit to the Governor a 4-year local plan for the delivery of workforce development services.[53]

Commerce serves as Florida's lead workforce agency.[54] Commerce is responsible for the fiscal and administrative affairs of the workforce development system.[55] Commerce receives and distributes federal funds for employment-related programs to the local workforce development boards.[56] Under the direction of CareerSource, Commerce is required to annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal laws.[57]

Incumbent Worker Training Program

The Incumbent Worker Training Program (program) was created to provide grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program provides reimbursement grants to businesses that that pay for preapproved, direct, training-related costs. The term "business" includes hospitals operated by nonprofit or local government entities which provide nursing opportunities to acquire new or improved skills. [58]

Funding priority is given in the following order:[59]

- Businesses that provide employees with opportunities to acquire new or improved skills by earning a credential on the Master Credentials List;
- Hospitals operated by nonprofit or local government entities that provide nursing opportunities to acquire new or improved skills;
- Businesses whose grant proposals represent a significant upgrade in employee skills;
- Businesses with 25 employees or fewer, businesses in rural areas, and businesses in distressed inner-city areas; and
- Businesses in a qualified targeted industry or businesses whose grant proposals represent a significant layoff avoidance strategy.

Effect of the Bill

The bill revises the term "businesses" under the program to include healthcare facilities and allied health care opportunities. The bill also revises the funding priority for grant purposes to provide that health care facilities, in addition to hospitals, operated by nonprofit or local government entities that provide opportunities in health care, rather than nursing opportunities, are eligible for the funding.

The bill specifies that WIOA state board members are voting members.

Commissioner of Deeds

Present Situation

The Governor may appoint commissioners of deeds to take acknowledgements, proofs of execution, or oaths in any foreign country, in international waters, or in any possession, territory, or commonwealth of

[51] *See* 29 U.S.C. s. 3121.
[52] 29 U.S.C. s. 3122.
[53] *See* 29 U.S.C. ss. 3122 and 3123.
[54] Primarily through the Division of Workforce Services. *See* s. 20.60, F.S.
[55] *See* s. 20.60(5)(c), F.S. and s. 445.009(3)(c), F.S.
[56] *See* s. 20.60(5)(c), F.S. and s. 445.003, F.S.
[57] *See* s. 445.007(3), F.S.
[58] S. 445.003(3)3., F.S.
[59] *Id.*

the United States outside the 50 states. The term of office is 4 years. Commissioners of deeds have authority to take acknowledgements, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state; provided such instrument or writing is executed outside the United States.[60]

Transfers of real property are not effectual in law unless the transfer is recorded according to law. Nor is any such instrument made or executed by power of attorney effectual in law unless the power of attorney is recorded before the accruing of the right of a creditor or subsequent purchaser.[61]

To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms:

- Within Florida – Acknowledgement or proof taken, administered, or made within this state by a judge, clerk, or deputy clerk of any court; a United States commissioner or magistrate; or any notary public or civil-law notary of this state.
- Outside of Florida but within the United States – Acknowledgement of proof taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Governor of Florida, or other certain individuals.
- Outside of the United States or within Foreign Countries – An acknowledgement, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made by or before a commissioner of deeds appointed by the Governor of Florida to act in such country, or other certain individuals.[62]

Effect of the Bill

The bill requires the Secretary of the Department of Commerce, rather than the Governor, to appoint commissioners of deeds who authenticate acknowledgements in certain real estate transactions outside of Florida but within the United States, and outside of the United States or within foreign countries.

Revitalization of Homeowner Association Covenants

Present Situation

Parcel owners in a community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community may revive the declaration and the association for the community upon approval by the parcel owners to be governed as provided in the Covenant Revitalization Act[63] and upon approval of the declaration and the other governing documents for the association by Commerce.[64]

No later than 60 days after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners, the organizing committee must submit the proposed revived governing documents and any supporting materials to Commerce to review and determine whether to approve or disapprove of the proposal to preserve the residential community.[65]

Commerce must make a determination no later than 60 days and must notify the organizing committee in writing of its approval or reasons for the disapproval.[66]

[60] S. 721.97(1), F.S.
[61] S. 695.01, F.S.
[62] S. 695.03(1)-(3), F.S.
[63] Ch. 720, Part III, F.S.
[64] S. 720.403(2), F.S.
[65] S. 720.406(1), F.S.
[66] S. 720.406(2), F.S.

Effect of Proposed Changes

The bill specifies that a homeowner's association's proposed revived declaration of covenants and articles of incorporation and bylaws must be submitted to Commerce within 60 days after obtaining valid written consent from a majority of the affected parcel owners, or within 60 days after the date the documents are approved by affected parcel owners by a vote at a meeting.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3175, F.S., relating to legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations.

Section 2: Amends s. 163.3184, F.S., relating to process for adoption of comprehensive plan or plan amendment.

Section 3: Amends s. 288.1229, F.S., relating to promotion and development of sports-related industries and amateur athletics; direct-support organization established; powers and duties.

Section 4: Amends s. 288.980, F.S., relating to military base retention; legislative intent; grants program.

Section 5: Amends s. 288.985, F.S., relating to exemptions from public records and public meetings requirements.

Section 6: Amends s. 288.987, F.S., relating to the Florida Defense Support Task Force.

Section 7: Amends s. 445.003, F.S., relating to implementation of the federal Workforce Innovation and Opportunity Act.

Section 8: Amends s. 445.004, F.S., relating to CareerSource Florida, Inc., and the state board; creation; purpose; membership; duties and powers.

Section 9: Amends s. 695.03, F.S., relating to acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.

Section 10: Amends s. 720.406, F.S., relating to Department of Commerce; submission; review; and determination.

Section 11: Amends s. 721.97, F.S., relating to timeshare commissioner of deeds.

Section 12: Provides as effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate. The bill may increase state government expenditures by moving the appointment of commissioner of deeds to Commerce and by transitioning the Florida Defense Support Task Force to a DSO of Commerce.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not authorize or require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Department of Commerce; amending s. 163.3175, F.S.; conforming a provision to changes made by the act; amending s. 163.3184, F.S.; revising the procedure for adopting comprehensive plan amendments; providing that amendments are deemed withdrawn if the local government fails to transmit the comprehensive plan amendments to the department, in its role as the state land planning agency, within a certain time period; amending s. 288.1229, F.S.; revising the duties of the Florida Sports Foundation; amending ss. 288.980 and 288.985, F.S.; conforming provisions to changes made by the act; amending s. 288.987, F.S.; requiring the department to establish a direct-support organization; renaming the Florida Defense Support Task Force as the direct-support organization; specifying that the organization is a direct-support organization of the department and a corporation not for profit; requiring the organization to operate under contract with the department; specifying requirements for such contract; specifying the organization's fiscal year; specifying audit requirements applicable to the organization; authorizing the organization to take certain actions regarding administration of property and expenditures;

specifying that the organization is not an agency for purposes of specified provisions of law; authorizing the department to allow the organization to use certain departmental resources, if certain conditions are met; revising the mission of the organization; modifying provisions governing the composition of the organization; revising the date by which the organization's annual report is due; providing certain powers and duties of the organization, subject to certain requirements and limitations; providing for future repeal; amending s. 445.003, F.S.; revising the definition of the term "businesses"; revising funding priority for purposes of funding grants under the Incumbent Worker Training Program; amending s. 445.004, F.S.; specifying that certain members of the state workforce development board are voting members of the board; amending s. 695.03, F.S.; authorizing the Secretary of Commerce to appoint commissioners of deeds; amending s. 720.406, F.S.; specifying required actions for a proposed revived declaration and other governing documents; making technical changes; amending s. 721.97, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (3) of section 163.3175, Florida Statutes, is amended to read:

163.3175 Legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations.—

(3) The direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~ may recommend to the Legislature changes to the military installations and local governments specified in subsection (2) based on a military base's potential for impacts from encroachment, and incompatible land uses and development.

Section 2. Paragraph (c) of subsection (3) and paragraph (e) of subsection (4) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.—

(c)1. The local government shall hold a ~~its~~ second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, and to adopt the comprehensive plan amendments, the amendments are ~~shall be~~

deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 working days after the final adoption ~~second public~~ hearing to the state land planning agency and any other agency or local government that provided timely comments under subparagraph (b)2. If the local government fails to transmit the comprehensive plan amendments within 10 working days after the final adoption hearing, the amendments are deemed withdrawn.

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of:

a. The adoption ordinance or ordinances;

b. In the case of a text amendment, ~~a full copy of~~ the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens;

c. In the case of a future land use map amendment, ~~a copy of~~ the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted

designation; and

d. ~~a copy of~~ Any data and analyses the local government deems appropriate.

4. An amendment adopted under this paragraph does not become effective until 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(4) STATE COORDINATED REVIEW PROCESS.—

(e) *Local government review of comments; adoption of plan or amendments and transmittal.*—

1. The local government shall review the report submitted to it by the state land planning agency, if any, and written comments submitted to it by any other person, agency, or government. The local government shall, upon receipt of the report from the state land planning agency, ~~shall~~ hold its second public hearing~~, which shall be a hearing~~ to determine whether to adopt the comprehensive plan or one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails to hold the second hearing and adopt the amendments within 180 days after receipt of the state land planning agency's report, the amendments shall be deemed withdrawn unless extended by agreement with notice to the state

land planning agency and any affected person that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, shall be transmitted within 10 working days after the final adoption ~~second public~~ hearing to the state land planning agency and any other agency or local government that provided timely comments under paragraph (c). If the local government fails to transmit the comprehensive plan amendments within 10 working days after the final adoption hearing, the amendments are deemed withdrawn.

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of a plan or plan amendment package. For purposes of completeness, a plan or plan amendment shall be deemed complete if it contains a full, executed copy of each of the following:

a. The adoption ordinance or ordinances;

b. In the case of a text amendment, ~~a full copy of~~ the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens;

c. In the case of a future land use map amendment, ~~a copy of~~ the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and

d. ~~a copy of~~ Any data and analyses the local government deems appropriate.

4. After the state land planning agency makes a determination of completeness regarding the adopted plan or plan amendment, the state land planning agency shall have 45 days to determine whether ~~if~~ the plan or plan amendment is in compliance with this act. Unless the plan or plan amendment is substantially changed from the one commented on, the state land planning agency's compliance determination shall be limited to objections raised in the objections, recommendations, and comments report. During the period provided for in this subparagraph, the state land planning agency shall issue, through a senior administrator or the secretary, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. The state land planning agency shall post a copy of the notice of intent on the agency's Internet website. Publication by the state land planning agency of the notice of intent on the state land planning agency's Internet site is ~~shall be~~ prima facie evidence of compliance with the publication requirements of this subparagraph.

5. A plan or plan amendment adopted under the state coordinated review process shall go into effect pursuant to the state land planning agency's notice of intent. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission

enters a final order determining the adopted amendment to be in compliance.

Section 3. Paragraph (g) of subsection (7) of section 288.1229, Florida Statutes, is amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization established; powers and duties.—

(7) To promote amateur sports and physical fitness, the foundation shall:

~~(g) Continue the successful amateur sports programs previously conducted by the Florida Governor's Council on Physical Fitness and Amateur Sports created under former s. 14.22.~~

Section 4. Paragraph (b) of subsection (2) of section 288.980, Florida Statutes, is amended to read:

288.980 Military base retention; legislative intent; grants program.—

(2)

(b)1. The department shall, annually by October 1, request military installations in this ~~the~~ state to provide the department with a list of base buffering encroachment lands for fee simple or less-than-fee simple acquisitions ~~before October 1~~.

2. The department shall submit the list of base buffering encroachment lands to the direct-support organization ~~Florida~~

~~Defense Support Task Force~~ created in s. 288.987.

3. The direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~ shall, annually by December 1, review the list of base buffering encroachment lands submitted by the military installations and provide its recommendations for ranking the lands for acquisition to the department.

4. The department shall annually submit the list of base buffering encroachment lands provided by the direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~ to the Board of Trustees of the Internal Improvement Trust Fund, which may acquire the lands pursuant to s. 253.025. At a minimum, the annual list must contain all of the following for each recommended land acquisition:

a. A legal description of the land and its property identification number.~~;~~

b. A detailed map of the land.~~; and~~

c. A management and monitoring agreement to ensure the land serves a base buffering purpose.

Section 5. Subsection (1) and paragraph (a) of subsection (2) of section 288.985, Florida Statutes, are amended to read:

288.985 Exemptions from public records and public meetings requirements.—

(1) The following records held by the direct-support organization created in s. 288.987 ~~Florida Defense Support Task~~

~~Force~~ are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) That portion of a record which relates to strengths and weaknesses of military installations or military missions in this state relative to the selection criteria for the realignment and closure of military bases and missions under any United States Department of Defense base realignment and closure process.

(b) That portion of a record which relates to strengths and weaknesses of military installations or military missions in other states or territories and the vulnerability of such installations or missions to base realignment or closure under the United States Department of Defense base realignment and closure process, and any agreements or proposals to relocate or realign military units and missions from other states or territories.

(c) That portion of a record which relates to the state's strategy to retain its military bases during any United States Department of Defense base realignment and closure process and any agreements or proposals to relocate or realign military units and missions.

(2)(a) Meetings or portions of meetings of the direct-support organization created in s. 288.987 ~~Florida Defense Support Task Force~~, or a workgroup of the direct-support organization ~~task force~~, at which records are presented or

discussed that are exempt under subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

Section 6. Section 288.987, Florida Statutes, is amended to read:

288.987 Florida Defense Support ~~Task Force~~.—

(1) The Department of Commerce shall establish a direct-support organization to support Florida's military and defense industries and communities ~~The Florida Defense Support Task Force is created~~.

(a) The direct-support organization is a corporation not for profit, as defined in s. 501(c)(3) of the Internal Revenue Code, which is incorporated under chapter 617 and approved by the Department of State. The direct-support organization is exempt from paying filing fees under chapter 617.

(b) The direct-support organization shall operate under contract with the department. The contract must provide that:

1. The department may review the direct-support organization's articles of incorporation.

2. The direct-support organization shall submit an annual budget proposal to the department, on a form provided by the department, in accordance with department procedures for filing budget proposals based on recommendations of the department.

3. Any funds that the direct-support organization holds in trust must revert to the state upon the expiration or cancellation of the contract.

4. The direct-support organization is subject to an annual financial and performance review by the department to determine whether the direct-support organization is complying with the terms of the contract and is acting in a manner consistent with the goals of the department and in the best interest of the state.

(c) The fiscal year of the direct-support organization begins on July 1 and ends on June 30 of the next succeeding year.

(d) The direct-support organization shall provide an annual financial audit in accordance with s. 215.981.

(e) The direct-support organization is not an agency for purposes of parts I, II, and IV-VIII of chapter 112; chapter 120; s. 215.31; chapter 216; ss. 255.21, 255.25, and 255.254, relating to leasing of buildings; ss. 283.33 and 283.35, relating to bids for printing; and chapter 287. However, the direct-support organization shall comply with the per diem and travel expense provisions of s. 112.061.

(f) Subject to the approval of the Secretary of Commerce, the department may allow the direct-support organization to use the property, facilities, personnel, and services of the department if the direct-support organization provides equal employment opportunities to all persons regardless of race, color, religion, sex, or national origin.

(2) The mission of the direct-support organization ~~task~~

~~force~~ is to carry out the provisions of this section, to make recommendations to preserve and protect military installations, to assist with the coordination of economic and workforce development efforts in military communities, to assist in the planning and research and development related to military missions, businesses, and military families ~~to support the state's position in research and development related to or arising out of military missions and contracting~~, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state. The direct-support organization is organized and operated to request, receive, hold, invest, and administer property and to manage and make expenditures for the operation of the activities, services, functions, and programs of this state for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing a smooth transition for large numbers of additional military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers.

(3) The direct-support organization shall be governed by a

board of directors.

(a) The board of directors is composed of the Governor, or his or her designee, and the following members ~~task force shall be comprised of the Governor or his or her designee, and 12 members~~ appointed as follows:

1.~~(a)~~ Four members appointed by the Governor.

2.~~(b)~~ Four members appointed by the President of the Senate.

3.~~(c)~~ Four members appointed by the Speaker of the House of Representatives.

(b)~~(d)~~ Appointed members must represent defense-related industries or communities that host military bases and installations. All appointments in place as of July 1, 2024, must continue in effect until the expiration of the term ~~must be made by August 1, 2011~~. Members shall serve for a term of 4 years~~, with the first term ending July 1, 2015~~. However, if members of the Legislature are appointed to the direct-support organization ~~task force~~, those members shall serve until the expiration of their legislative term and may be reappointed once. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the initial appointment. ~~All members of the council are eligible for reappointment.~~ A member who serves in the Legislature may participate in all direct-support organization ~~task force~~ activities but may only vote on matters that are advisory.

(c) ~~(4)~~ The President of the Senate and the Speaker of the House of Representatives shall each designate one of their appointees to serve as chair of the direct-support organization ~~task force~~. The chair shall serve a 2-year term, rotating on ~~rotate each~~ July 1 of each odd-numbered year. The appointee designated by the President of the Senate shall serve as initial chair. If the Governor, instead of his or her designee, participates in the activities of the direct-support organization ~~task force~~, ~~then~~ the Governor shall serve as chair.

(d) ~~(5)~~ The Secretary of Commerce ~~Economic Opportunity~~, or his or her designee, shall serve as the ex officio, nonvoting executive director of the direct-support organization ~~task force~~.

(4) ~~(6)~~ The direct-support organization ~~task force~~ shall submit an annual ~~progress~~ report ~~and work plan~~ to the Governor, the President of the Senate, and the Speaker of the House of Representatives each December ~~February~~ 1.

(5) The direct-support organization, in the performance of its duties, may:

(a) Make and enter into contracts and assume such other functions as are necessary to carry out the mission of the direct-support organization and its contract with the department, provided that any such contracts and assumptions are not inconsistent with this section or any other applicable provision of law governing the direct-support organization. A

proposed contract with a total cost of $750,000 or more is subject to the notice, review, and objection procedures of s. 216.177. If the chair and vice chair of the Legislative Budget Commission, or the President of the Senate and the Speaker of the House of Representatives, timely advise the direct-support organization in writing that such proposed contract is contrary to legislative policy and intent, the direct-support organization may not enter into such proposed contract. The direct-support organization may not divide one proposed contract with a total cost of $750,000 or more into multiple contracts to circumvent the requirements of this paragraph.

(b) Establish grant programs and administer grant awards to support its mission.

~~(7) The department shall support the task force and contract with the task force for expenditure of appropriated funds, which may be used by the task force for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing a smooth transition for large numbers of additional military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The task force may~~

(c) Annually spend up to $250,000 of funds appropriated to the department for the direct-support organization ~~task force~~ for staffing and administrative expenses of the direct-support organization ~~task force~~, including travel and per diem costs incurred by direct-support organization ~~task force~~ members who are not otherwise eligible for state reimbursement.

(6) This section is repealed October 1, 2029, unless reviewed and saved from repeal by the Legislature.

Section 7. Paragraph (a) of subsection (3) of section 445.003, Florida Statutes, is amended to read:

445.003 Implementation of the federal Workforce Innovation and Opportunity Act.—

(3) FUNDING.—

(a) Title I, Workforce Innovation and Opportunity Act funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended based on the 4-year plan of the state board. The plan must outline and direct the method used to administer and coordinate various funds and programs that are operated by various agencies. The following provisions apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers which are passed through to local workforce development boards shall be allocated to and expended on Individual Training Accounts unless a local workforce development board obtains a waiver from the state board. Tuition, books, and fees of training providers and other

training services prescribed and authorized by the Workforce Innovation and Opportunity Act qualify as Individual Training Account expenditures.

2. Fifteen percent of Title I funding shall be retained at the state level and dedicated to state administration and shall be used to design, develop, induce, fund, and evaluate the long-term impact of innovative Individual Training Account pilots, demonstrations, and programs to enable participants to attain self-sufficiency and to evaluate the effectiveness of performance-based contracts used by local workforce development boards under s. 445.024(5) on increasing wages and employment over the long term. Of such funds retained at the state level, $2 million may be reserved for the Incumbent Worker Training Program created under subparagraph 3. Eligible state administration costs include the costs of funding for the state board and state board staff; operating fiscal, compliance, and management accountability systems through the department; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to local workforce development areas at the direction of the state board. Notwithstanding s. 445.004, such administrative costs may not exceed 25 percent of these funds. An amount not to exceed 75 percent of these funds shall be allocated to Individual Training Accounts and other workforce development strategies for other training designed and tailored

by the state board in consultation with the department, including, but not limited to, programs for incumbent workers, nontraditional employment, and enterprise zones. The state board, in consultation with the department, shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to businesses that pay for preapproved, direct, training-related costs. For purposes of this subparagraph, the term "businesses" includes hospitals and health care facilities operated by nonprofit or local government entities which provide nursing or allied health care opportunities to acquire new or improved skills.

a. The Incumbent Worker Training Program will be administered by CareerSource Florida, Inc., which may, at its discretion, contract with a private business organization to serve as grant administrator.

b. The program shall be administered under s. 134(d)(4) of the Workforce Innovation and Opportunity Act. Funding priority shall be given in the following order:

(I) Businesses that provide employees with opportunities to acquire new or improved skills by earning a credential on the

Master Credentials List.

(II) Hospitals or health care facilities operated by nonprofit or local government entities that provide ~~nursing~~ opportunities in health care to acquire new or improved skills.

(III) Businesses whose grant proposals represent a significant upgrade in employee skills.

(IV) Businesses with 25 employees or fewer, businesses in rural areas, and businesses in distressed inner-city areas.

(V) Businesses in a qualified targeted industry or businesses whose grant proposals represent a significant layoff avoidance strategy.

c. All costs reimbursed by the program must be preapproved by CareerSource Florida, Inc., or the grant administrator. The program may not reimburse businesses for trainee wages, the purchase of capital equipment, or the purchase of any item or service that may possibly be used outside the training project. A business approved for a grant may be reimbursed for preapproved, direct, training-related costs including tuition, fees, books and training materials, and overhead or indirect costs not to exceed 5 percent of the grant amount.

d. A business that is selected to receive grant funding must provide a matching contribution to the training project, including, but not limited to, wages paid to trainees or the purchase of capital equipment used in the training project; must sign an agreement with CareerSource Florida, Inc., or the grant

administrator to complete the training project as proposed in the application; must keep accurate records of the project's implementation process; and must submit monthly or quarterly reimbursement requests with required documentation.

e. All Incumbent Worker Training Program grant projects shall be performance-based with specific measurable performance outcomes, including completion of the training project and job retention. CareerSource Florida, Inc., or the grant administrator shall withhold the final payment to the grantee until a final grant report is submitted and all performance criteria specified in the grant contract have been achieved.

f. The state board may establish guidelines necessary to implement the Incumbent Worker Training Program.

g. No more than 10 percent of the Incumbent Worker Training Program's total appropriation may be used for overhead or indirect purposes.

4. At least 50 percent of Rapid Response funding shall be dedicated to Intensive Services Accounts and Individual Training Accounts for dislocated workers and incumbent workers who are at risk of dislocation. The department shall also maintain an Emergency Preparedness Fund from Rapid Response funds, which will immediately issue Intensive Service Accounts, Individual Training Accounts, and other federally authorized assistance to eligible victims of natural or other disasters. At the direction of the Governor, these Rapid Response funds shall be released to

local workforce development boards for immediate use after events that qualify under federal law. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies and to work with state emergency management officials and local workforce development boards. All Rapid Response funds must be expended based on a plan developed by the state board in consultation with the department and approved by the Governor.

Section 8. Paragraph (a) of subsection (3) of section 445.004, Florida Statutes, is amended to read:

445.004 CareerSource Florida, Inc., and the state board; creation; purpose; membership; duties and powers.—

(3)(a) Members of the state board described in Pub. L. No. 113-128, Title I, s. 101(b)(1)(C)(iii)(I)(aa) are voting ~~nonvoting~~ members. The number of members is determined by the Governor, who shall consider the importance of minority, gender, and geographic representation in making appointments to the state board. When the Governor is in attendance, he or she shall preside at all meetings of the state board.

Section 9. Subsections (2) and (3) of section 695.03, Florida Statutes, are amended to read:

695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.—To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party

executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms:

(2) OUTSIDE THIS STATE BUT WITHIN THE UNITED STATES.—An acknowledgment or a proof taken, administered, or made outside of this state but within the United States may be taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Secretary of Commerce ~~Governor of this state~~; by a judge or clerk of any court of the United States or of any state, territory, or district; by or before a United States commissioner or magistrate; or by or before any notary public, justice of the peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is taken, administered, or made by or before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, "I am a Notary Public of the State of ...(state)..., and my commission expires on ...(date)...."

(3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN COUNTRIES.—An acknowledgment, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made outside the United States or in a foreign country may be taken, administered, or made by or before a commissioner of

deeds appointed by the Secretary of Commerce ~~Governor of this state~~ to act in such country; before a notary public of such foreign country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice consul, consular agent, or other diplomatic or consular officer of the United States appointed to reside in such country; or before a military or naval officer authorized by 10 U.S.C. s. 1044a to perform the duties of notary public, and the certificate of acknowledgment, legalization, authentication, or proof must be under the seal of the officer. A certificate legalizing or authenticating the signature of a person executing an instrument concerning real property and to which a civil-law notary or notary public of that country has affixed her or his official seal is sufficient as an acknowledgment. For the purposes of this section, the term "civil-law notary" means a civil-law notary as defined in chapter 118 or an official of a foreign country who has an official seal and who is authorized to make legal or lawful the execution of any document in that jurisdiction, in which jurisdiction the affixing of her or his official seal is deemed proof of the execution of the document or deed in full compliance with the laws of that jurisdiction.

Section 10. Section 720.406, Florida Statutes, is amended to read:

720.406 Department of Commerce ~~Economic Opportunity~~; submission; review and determination.—

(1) Within ~~No later than~~ 60 days after obtaining valid written consent from a majority of the affected parcel owners, or within 60 days after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners by vote at a meeting, the organizing committee or its designee must submit the proposed revived governing documents and supporting materials to the Department of Commerce ~~Economic Opportunity~~ to review and determine whether to approve or disapprove of the proposal to preserve the residential community. The submission to the department must include:

(a) The full text of the proposed revived declaration of covenants and articles of incorporation and bylaws of the homeowners' association.~~;~~

(b) A verified copy of the previous declaration of covenants and other previous governing documents for the community, including any amendments thereto.~~;~~

(c) The legal description of each parcel to be subject to the revived declaration and other governing documents and a plat or other graphic depiction of the affected properties in the community.~~;~~

(d) A verified copy of the written consents of the requisite number of the affected parcel owners approving the

revived declaration and other governing documents or, if approval was obtained by a vote at a meeting of affected parcel owners, verified copies of the notice of the meeting, attendance, and voting results.~~;~~

(e) An affidavit by a current or former officer of the association or by a member of the organizing committee verifying that the requirements for the revived declaration set forth in s. 720.404 have been satisfied.~~; and~~

(f) Such other documentation that the organizing committee believes is supportive of the policy of preserving the residential community and operating, managing, and maintaining the infrastructure, aesthetic character, and common areas serving the residential community.

(2) Within ~~No later than~~ 60 days after receiving the submission, the department must determine whether the proposed revived declaration of covenants and other governing documents comply with the requirements of this act.

(a) If the department determines that the proposed revived declaration and other governing documents comply with the act and have been approved by the parcel owners as required by this act, the department shall notify the organizing committee in writing of its approval.

(b) If the department determines that the proposed revived declaration and other governing documents do not comply with, ~~this act~~ or have not been approved as required by, this act, the

department shall notify the organizing committee in writing that it does not approve the governing documents and shall state the reasons for the disapproval.

Section 11. Subsection (1) of section 721.97, Florida Statutes, is amended to read:

721.97 Timeshare commissioner of deeds.—

(1) The Secretary of Commerce ~~Governor~~ may appoint commissioners of deeds to take acknowledgments, proofs of execution, or oaths in any foreign country, in international waters, or in any possession, territory, or commonwealth of the United States outside the 50 states. The term of office is 4 years. Commissioners of deeds shall have authority to take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state; provided such instrument or writing is executed outside the United States. Such acknowledgments, proofs of execution, and oaths must be taken or made in the manner directed by the laws of this state, including, but not limited to, s. 117.05(4), (5)(a), and (6), Florida Statutes 1997, and certified by a commissioner of deeds. The certification must be endorsed on or annexed to the

instrument or writing aforesaid and has the same effect as if made or taken by a notary public licensed in this state.

Section 12. This act shall take effect July 1, 2024.

HB 1483

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1483 Pinellas County Construction Licensing Board, Pinellas County
SPONSOR(S): Chaney
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		Larkin	Anstead
3) State Affairs Committee			

SUMMARY ANALYSIS

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida, with construction contracting regulated by the Construction Industry Licensing Board (CILB). Counties and municipalities may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB after July 1, 2024.

The Pinellas County Construction Licensing Board (Board) was created in 1975 as a dependent agency of the Pinellas County Board of County Commissioners (PCBC). The Board regulates certain construction and home improvement contractors practicing in all Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.

The Board consists of 15 members appointed by the PCBC serving four-year terms. Board members may not serve more than two consecutive terms, but may be reappointed after a two-year hiatus. However, the limitation does not apply to the governmental building official or fire official appointees. All Board members, except any governmental building official, must be residents of Pinellas County.

This bill recodifies prior special acts relating to the Board and updates the Board's charter by:

- Updating definitions concerning types of contracting to those found in general law;
- Providing a list of certain types of contractors that may be defined by rules adopted by the Board;
- Removing registration requirements for contractors, consistent with the prohibition of local contractor licensing that takes effect July 1, 2024;
- Providing for examination for certification for specialty contractors;
- Clarifying the causes for which disciplinary action against a certificate can be brought;
- Reducing the period the Board must retain examinations from five years to two years; and
- Making conforming changes.

The Economic Impact Statement (EIS) estimates the bill will result in a revenue decrease of $449,835 and a cost of $30,000 for external software developers and other changes impacting staff and operations for Fiscal Year (FY) 2024-2025 and a revenue decrease of $449,835 and a cost of $35,000 for FY 2025-2026. The EIS also states other estimated n costs will reduce by $220,000 per year.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Construction Professional Licenses

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida. Part I of ch. 489, F.S., covers construction contracting regulated by the Construction Industry Licensing Board (CILB) and pt. II of ch. 489, F.S., covers electrical/alarm system contracting regulated by the Electrical Contractors' Licensing Board. Both boards are housed in the Department of Business and Professional Regulation (DBPR).[1]

Construction contractors are either certified or registered by the CILB.[2] The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.[3] The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.[4]

An individual is considered a "certified contractor" if they pass the state competency examination and obtain a certificate of competency issued by DBPR.[5] 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. Additionally, a contractor may be considered a "certified specialty contractor" if their scope of work is limited to a particular phase of construction, such as drywall or demolition.[6] Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.

The CILB licenses the following types of contractors:[7]

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- Commercial, Residential, and Service • 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

[1] Ch. 489, Parts I and II, F.S.
[2] S. 489.115, F.S.
[3] S. 489.107(1), F.S.
[4] Ss. 489.115 and 489.129, F.S.
[5] S. 489.105(8), F.S.
[6] S. 489.105(3)(q), F.S.
[7] S. 489.105(3)(a)-(q), F.S.; R. 61G4-15.015-.040, F.A.C.

	• 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.[8] Local governments may only collect licensing fees that cover the cost of regulation.[9]

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.[10]

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB). Certified contractors can practice statewide and are licensed and regulated by the ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.[11]

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.[12]

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 July 1, 2024.[13] Counties and municipalities are precluded 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.

Counties and municipalities may continue 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.[14] The licensing of those specific local journeyman licenses is exempt from preemption.

Pinellas County Construction Licensing Board

The Pinellas County Construction Licensing Board (Board) was created by special act in 1975.[15] The Board is a dependent agency of the Pinellas County Board of Commissioners (PCBC). The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and certification of journeymen.

[8] Ss. 489.117 and 489.131, F.S.
[9] *See* Office of Economic and Demographic Research, *2022 Local Government Financial Information Handbook*, 9, http://edr.state.fl.us/Content/local-government/reports/lgfih22.pdf (last visited Jan. 22, 2024).
[10] Ss. 489.105 and 489.117(4), F.S.
[11] *See generally* s. 489.505, F.S.
[12] Ss. 489.505(19) and 489.511(4), F.S; Rule 61G6-7.001, F.A.C.
[13] S. 163.211(2)(a), F.S.
[14] Ss. 489.1455 and 489.5335, F.S.
[15] Ch. 75-489, Laws of Fla.

The Board consists of 15 members appointed by the PCBC for four-year terms.[16] Board members may not serve more than two consecutive terms, but may be reappointed after a two-year hiatus.[17] However, the limitation does not apply to the governmental building official or fire official appointees.[18] All Board members must be residents of Pinellas County with the exception of any governmental building officials.[19] The membership of the Board consists of:[20]

- A general contractor;
- An architect;
- A residential contractor;
- An electrical contractor;
- A plumbing contractor;
- A mechanical contractor or Class A air-conditioning contractor;
- A roofing contractor or sheet metal contractor;
- A swimming pool contractor, aluminum specialty contractor, or veneer specialty contractor;
- A Pinellas County building official;
- Two consumer representatives not affiliated with the construction industry;
- A fire official;
- Three building officials, one each from the northern,[21] southern,[22] and beach community[23] portions of the county.

Current law governing the Board contains a detailed list of various types of contractors, including those who fall under the jurisdiction of the CILB and those only subject to local provisions.[24] Contractors are required to register and certify with the Board based on examinations conducted by the committees established by the Board.[25]

The Board may revoke or suspend a certificate if a contractor has been found to:

- Willfully or deliberately disregarded or violated the building code;
- Have aided or abetted any uncertified or unregistered person to evade the special act establishing the Board;
- Knowingly conspired with an uncertified or unregistered person to allow the contractor's certificate to be used by the uncertified or unregistered person with the intend to evade;
- Commit mismanagement or misconduct in the practice of contracting that causes financial harm to a customer;
- Been subject to discipline by a county or municipality;
- Abandon a construction project in which the contractor is engaged or under contract as a contractor;
- Guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting; and
- Proceed on any job without obtaining applicable local building department permits and inspections.[26]

Effect of Proposed Changes

This bill recodifies all special acts relating to the Board and makes the following revisions:

- Updates definitions concerning types of contracting to those found in general law;

[16] Ch. 75-489, s. 12(1), Laws of Fla., as amended by ch. 2019-184, s. 1, Laws of Fla.
[17] Ch. 75-489, s. 12(3)(a), Laws of Fla., as amended by ch. 2018-179, s. 1, Laws of Fla.
[18] *Id.*
[19] Ch. 75-489, s. 12(1), Laws of Fla., as amended by ch. 2019-184, s. 121, Laws of Fla.
[20] Ch. 75-489, s. 12(3)(a), Laws of Fla., as amended by ch. 2018-179, s. 1(3)(a) of s. 12, Laws of Fla.
[21] Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo.
[22] St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park.
[23] Belleair Beach, Belleair Shore, Redington Beach, North Redington Beach, Madeira Beach, Indian Rocks Beach, Indian Shores, Redington Shores, Treasure Island, or St. Pete Beach.
[24] Ch. 75-489, s. 11, Laws of Fla., as amended.
[25] Ch. 75-489, ss. 15-17, Laws of Fla., as amended.
[26] Ch. 75-489, s. 24, Laws of Fla.

- Provides a list of certain types of contractors that may be defined by rules adopted by the Board;
- Removes registration requirements, consistent with the provisions of s. 163.211, F.S.;
- Provides for examination for certification for specialty contractors;
- Clarifies the causes for which disciplinary action against a certificate can be brought;
- Reduces the period the Board must retain examinations from five years to two years; and
- Makes conforming changes.

The Economic Impact Statement (EIS) estimates the bill will have a $449,835 revenue decrease and a cost of $30,000 for external software developers and other changes impacting staff and operations for Fiscal Year (FY) 2024-2025 and a $449,835 revenue decrease and a cost of $35,000 for FY 2025-2026. The EIS also states other estimated costs will reduce by $220,000 per year.

B. SECTION DIRECTORY:

Section 1: Provides for codification of all special acts relating to the Board.

Section 2: Provides special acts relating to the Board are amended, codified, reenacted, and repealed as provided by the bill.

Section 3: Provides a charter for the Board.

Section 4: Repeals 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-179, and 2019-184, Laws of Florida.

Section 5: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? December 6, 2023

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation published in Pinellas 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 neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Pinellas County Construction Licensing Board, Pinellas County; codifying, reenacting, amending, and repealing special acts relating to the board; providing definitions; revising membership of the board; revising commencement and expiration of terms; removing provisions relating to registration; removing obsolete funding and certification provisions; removing provisions requiring a code compliance bond and proof of certain liability insurance as conditions for certification; repealing chapters 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-179, and 2019-184, Laws of Florida; providing an effective date.

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

Section 1. This act constitutes the codification of all special acts relating to the Pinellas County Construction Licensing Board, an agency that regulates certain construction and home improvement contractors practicing in Pinellas County, Florida.

Section 2. Chapters 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-

179, and 2019-184, Laws of Florida, are amended, codified, reenacted, and repealed as herein provided. Notwithstanding the codification or reenactment of any provision herein, nothing herein may be construed as preventing the sunset of certain license categories as provided for in chapter 2023-271, Laws of Florida.

Section 3. The charter for the Pinellas County Construction Licensing Board is re-created and reenacted to read:

Section 1. (1) It is hereby declared to be the public policy of the state that, in order to safeguard the life, health, property and public welfare of the citizens of Pinellas County, the business of construction and home improvement is a matter affecting the public interest and any person desiring to engage in the business as herein defined on a countywide basis without the necessity of meeting the competency requirements of each municipality in Pinellas County and the requirements of Pinellas County may establish his or her competency and qualification to be certified as herein provided.

(2) The Legislature recognizes that the construction and home improvement industries may pose a danger of significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services. Therefore, it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry in

Pinellas County.

Section 2. Definitions.—

(1) The definitions found in ss. 489.105(3) and (6) and 489.505(1), (2), (9), and (12), Florida Statutes, as may be amended from time to time, apply to this entire act.

(2) Notwithstanding subsection (1), the definitions of the terms plumbing contractor, master plumber, tile and marble specialty contractor, irrigation system specialty contractor, carpentry specialty contractor, natural gas specialty contractor, painting specialty contractor, marine specialty contractor, flatwork masonry specialty contractor, structural masonry contractor, drywall specialty contractor, air conditioning journeyman, journeyman electric, journeyman plumber, and contracting may be determined by rules established by the Pinellas County Construction Licensing Board.

(3) The term "board" or "PCCLB" means the Pinellas County Construction Licensing Board.

Section 3. Pinellas County Construction Licensing Board; organization, meetings, and powers.—

(1) The PCCLB is created, within the County of Pinellas, consisting of 15 members. All members of the board must be residents of Pinellas County with the exception of any governmental building officials. All members of the board shall be appointed by the Pinellas County Board of County Commissioners, as follows:

(a) Eight members including the following:

1. One general contractor who is licensed to do business in this state and actively engaged in the profession.

2. One architect who is registered to practice in this state and actively engaged in the profession.

3. One residential contractor who is licensed to do business in this state and actively engaged in the profession.

4. One electrical contractor who is licensed to do business in this state and actively engaged in the profession.

5. One plumbing contractor who is licensed to do business in this state and actively engaged in the profession.

6. One mechanical contractor or Class A air-conditioning contractor who is licensed to do business in this state and actively engaged in the profession.

7. One roofing or sheet metal contractor who is licensed to do business in this state and actively engaged in the profession.

8. One swimming pool contractor, specialty structure contractor, or veneer specialty contractor who is licensed to do business in this state and actively engaged in the profession.

(b) A Pinellas County building official.

(c) Two consumer representatives not affiliated with the construction industry.

(d) A fire official.

(e) Three building officials as follows:

1. A North county building official from one of the following municipalities: Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo.

2. A South county building official from one of the following municipalities: St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park.

3. A Beach community building official from one of the following municipalities: Belleair Beach, Belleair Shore, Redington Beach, North Redington Beach, Madeira Beach, Indian Rocks Beach, Indian Shores, Redington Shores, Treasure Island, or St. Pete Beach.

(2)(a) To be eligible for appointment to the first board, each member, other than the building official, the architect, and the consumer member, shall personally hold an unexpired certified license issued by the City of St. Petersburg, the City of Clearwater, the County of Pinellas, or the State of Florida at the time of appointment; be actively engaged in his or her respective business and have been so engaged for a period of at least 5 consecutive years before the date of appointment; and be a citizen and resident of the county.

(b) Each member of the board, other than the building official, the architect, and the consumer member, succeeding the original appointees shall possess the qualifications prescribed in paragraph (a).

(3)(a) A board member may not serve more than two

consecutive terms of 4 years but may be reappointed after a 2-year hiatus. This limitation shall not apply to any of the governmental buildings official or fire official appointees.

(b) The terms of the following members expire in even-numbered years: the general contractor, the architect, the residential contractor, the electrical contractor, the consumer representative, and the North county and Beach Community building officials. The terms of the following members shall commence in odd-numbered years: the mechanical contractor or Class A air conditioning contractor; the fire official; the roofing or sheet metal contractor; the swimming pool contractor, specialty structural contractor, or veneer specialty contractor; the plumbing contractor; the consumer representative; and the South county building official.

(c) As the terms of the members expire, the Board of County Commissioners shall appoint a member to fill the vacancy for a term for 4 years. The board shall elect from its members a chair and a vice chair for term of up to 2 years. All terms of office expire on September 30 of the last year of the term. Vacancies in the membership occurring prior to the end of a member's term for any cause shall be filled by the Pinellas County Board of County Commissioners.

(4) The board shall meet regularly as needed. Special meetings of the board may be held as the board provides in its rules and regulations. A majority of the members of the board

constitutes a quorum.

(5) The board is authorized to adopt rules and regulations in accordance with s. 162.08, Florida Statutes, to carry out the provisions of this act.

(6) Any member of the board or duly appointed hearing officer designated by the board may administer oaths and take testimony about all matters within the jurisdiction of the board, issue subpoenas which shall be supported by affidavit, serve subpoena and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. Chapter 120, Florida Statutes, will govern hearings conducted by or on behalf of the board. The board is designated an "agency" as defined in s. 120.52(1)(c), Florida Statutes, for purposes of utilizing the Division of Administrative Hearings of the Department of Administration.

(7) The board is authorized to employ personnel and incur expenses as necessary to perform its duties and enforce this act and shall sue and be sued in its official name.

(8) The board shall adopt a seal for its use containing the words "Pinellas County Construction Licensing Board."

(9) The board is authorized to waive any examination requirements for PCCLB certification of a contractor or journeyman, except that all required insurance coverage shall not be waived.

(10) The board shall be empowered to issue cease and

desist orders in accordance with s. 489.113, Florida Statutes, to prohibit any person from engaging in the business of contacting who does not hold the required certification for the type of work being performed under this act.

(11) The board shall be empowered to employ investigators or inspectors to enforce the provisions of this act and to issue citations in accordance with s. 489.127(5), Florida Statutes, for violations of this act.

(12) The board is authorized, for good cause shown, to establish such other reasonable classifications of contractors or journeymen in the construction industry as are required or requested by any municipal or county building department in addition to those specifically enumerated herein, including, but not limited to: aluminum contractors, swimming pool contractors, gas contractors, roofing contractors, and carpentry contractors. Certification of such contractors or journeymen shall be on a countywide basis in accordance with the procedure governing other contractors as set forth in this act.

(13) Board staff are employees of Pinellas County, and Pinellas County is responsible for all costs associated therewith. The board is a dependent agency of the Board of County Commissioners. The Board of County Commissioners may adopt rules to implement this act, including, but not limited to, rules relating to board finances and contribution for costs associated with this act to be borne by the county, and may

remove any member of the board at will.

(14)(a) The board shall submit to all local governments in Pinellas County, and make available to the public, a complete report on finances and administrative activities of the board as of the end of each fiscal year.

(b) The board is subject to periodic audits performed by a certified auditor chosen by the Board of County Commissioners.

(15) Each member of the board who is not otherwise required to file a financial disclosure statement pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, Florida Statutes, must file an annual disclosure of financial interests pursuant to s. 112.3145, Florida Statutes.

(16) Notwithstanding any law to the contrary, if the qualified electors of Pinellas County voting in a referendum approve the transfer of all authority of the board to the Board of County Commissioners, the board shall stand dissolved as of the effective date of the referendum.

Section 4. Disposition of fees; expenses; compensation.—All moneys collected by the board shall be received, deposited, expended, and accounted for pursuant to law. The expenses of the board and its officers and of the examinations held by the board, and of other matters in connection with this act, shall be paid from the money collected under this act. Members of the board shall receive per diem and mileage as provided by law.

Section 5. Board jurisdiction and duties.—

(1) Except as herein provided, the board shall have concurrent jurisdiction with municipal examining boards.

(2) The board shall have the duty to promulgate rules and regulations governing the certification of those engaging in county-wide contracting and shall provide for the examination of those so engaged.

(3) The board shall have the duty to promulgate rules and regulations governing the county-wide certification of journeymen and shall provide for the examination of those so engaged.

(4) The board shall have the authority to employ persons to enforce the provisions of Section 13(1) of this act.

(5) The board shall have the duty to promulgate rules and regulations for the administration of a citation program and training of investigators in accordance with s. 489.127(5)(l), Florida Statutes.

Section 6. Examination committees.—

(1) The board shall establish four examination committees to establish the examinations required for certification under this act. One committee shall consist of the board itself to establish and administer the qualifications for certification and the examination for the general contractors, building contractors and residential building contractors, and specialty contractors; one committee shall consist of the Chief Mechanical Inspector from either the City of St. Petersburg, the City of

Clearwater, or the County of Pinellas, and two mechanical contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for mechanical contractors; one committee shall consist of the Chief Electrical Inspector from either the City of St. Petersburg, the City of Clearwater, or the County of Pinellas and two electrical contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for electrical contractors; and one committee shall consist of the Chief Plumbing Inspector from either the City of St. Petersburg, the City of Clearwater or the County of Pinellas, and two plumbing contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for plumbing contractors.

(2) The examination committees for electrical contractors, plumbing contractors, and mechanical contractors shall also give examinations for certificates of competency for journeymen in the electrical, plumbing, and mechanical trades, respectively. For purposes of this act, the term "journeyman" means a person who is the holder of a valid certificate of competency issued by

the board after passing the required examination as provided in this act and who is thereby entitled to perform the manual work of installing plumbing, mechanical, or electrical installations under the general direction of a master in the trade. Each examination committee shall determine the matter to be covered by the examination. The examination shall be of a practical and elementary character sufficiently strict to test the qualifications of the applicant.

(3) The board shall have jurisdiction over all the examinations and regulations pursuant to this act.

Section 7. Certification.—

(1) To obtain a PCCLB certificate, an applicant shall submit an application in writing to the board containing the statement that the applicant desires the issuance of a certificate and the class of certificate desired on a form containing the information prescribed by the board, accompanied by the prescribed fee.

(2)(a) Examinations shall be held at times and places within the county as the board determines, but there shall be at least three examinations a year. Each applicant shall take an objective written examination about his or her fitness for a certificate in the category for which application is made. There shall be a type of examination for all contractor categories that shall apply to the type of work covered by the certificate applied for. The examination shall cover knowledge of basic

principles of contracting and construction applicable to the category for which a certificate is requested. It shall be an open-book examination consisting of multiple-choice, fill-in, true-false, or short-answer questions and may include or consist of diagrams, plans, or sketches in connection with which the applicant is required to demonstrate his or her knowledge of construction by answering questions keyed to the diagrams, plans, or sketches or make a drawing if required by a certificate of competency examination. All examinations shall be prepared by an independent testing agency, subject to approval of the board.

(b) A passing grade on the examination is 70 percent.

(c) Persons desiring to engage in specialty building trades with the county which are not covered by this act and require a municipal or county examination for licensing or certification shall be required to take and pass only one such examination that shall then be recognized in all other municipalities and the county without the necessity for an additional examination.

(3) Examinations for journeymen certificates of competency shall be conducted by an independent agency and shall be held at the times, conducted in the manner, require the passing grade, and shall be otherwise similar to those prescribed in subsection (2).

(4) Upon receipt of the fee and application, the board

shall investigate the financial responsibility, credit, and business reputation of the applicant and of any business organization on behalf of which he or she proposes to engage in contracting, and the education and experience of the applicant. Within 30 days from the date of the examination, the board shall tell the applicant in writing whether he or she has qualified and, if the applicant has qualified, that it is ready to issue a certificate in the category for which application was made, subject to compliance with the requirements of subsection (5).

(5) As a prerequisite to issuance of a contractor's PCCLB certificate, the board shall require the applicant to submit satisfactory evidence that he or she has obtained public liability and property damage insurance for the safety and welfare of the public in amounts to be determined by the board. Thereupon, the PCCLB certificate shall be issued forthwith, but this subsection does not apply to inactive certificates.

(6) If an applicant for an original PCCLB certificate, after having been notified to do so, does not appear for examination within 1 year from the date of filing his or her application, the fee paid by him or her shall be credited to the board as an earned fee. A new application for a PCCLB certificate shall be accompanied by another application fee. Forfeiture of a fee may be waived by the board for good cause.

(7) When a PCCLB certificateholder desires to engage in contracting in any area of the county, including municipalities,

as a prerequisite therefor, he or she shall only be required to exhibit to the local building official evidence of holding a current certificate issued by the board accompanied by the fee for the occupational license and building permit required of other persons. He or she shall not be required to take a municipal examination to prove his or her competency to obtain a municipal license.

(8) When a state certificateholder desires to engage in contracting in any area of the county, including municipalities, as a prerequisite therefor, he or she shall be required to exhibit to the local building official, tax collector, or other person in charge of the issuance of licenses and building permits in the area evidence of holding a current state certificate accompanied by the fee for the occupational license and the building permit required of other persons. A state certificateholder shall not be required to take an examination to prove his or her competency for the county or municipality to obtain a county or municipal license.

(9) The PCCLB certificate shall not be transferable.

(10) Persons not desiring to engage in contracting on a county-wide basis may take any required examination of any municipality within which he or she wishes to limit his or her business, except that he or she must register with the board in addition thereto.

(11) A municipality may require persons desiring to engage

in the business of contracting within its boundaries to comply with the examination requirements provided in this act rather than requiring its own examination, but it shall not require both.

Section 8. Business organizations.—

(1) When a natural person proposes to do business in his or her own name, a PCCLB certification, when granted, shall be issued only to that individual.

(2)(a) If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, the application shall state the name of the partnership and of its partners, or the name of the corporation and of its officers and directors, or the name of the business trust and its trustees, or the name of such other legal entity and its members, and furnish evidence of statutory compliance if a fictitious name is used. The application shall also show that the person applying for the examination is legally qualified to act for the business organization in all matters connected with its contracting business and that he or she has authority to supervise construction undertaken by the business organization. The PCCLB certification shall be in the name of the qualifying individual. If a natural person so qualified on behalf of the business organization ceases to be affiliated with the business organization, he or she shall inform the board as provided in this act. In addition, if the natural person is the only

qualified natural person affiliated with the business organization, the business organization shall notify the board of his or her termination and shall have a period of 60 days from the termination of his or her affiliation with the business organization in which to qualify another natural person under the provisions of this act, failing which the certification of the business organization shall be subject to revocation by the board.

(b) The natural person shall also inform the board in writing when he or she proposes to engage in contracting in his or her own name or in affiliation with another business organization, and he or she or the new business organization shall supply the same information to the board as required for an applicant under this act.

(c) After an investigation of the financial responsibility, credit, and business reputation of the natural person or the new business organization, and upon a favorable determination, the board shall forthwith issue without charge or examination a new PCCLB certificate in the natural person's name.

(3) When a business organization makes application for an occupational license in any municipality, the application shall be made with the tax collector in the name of the business organization, and the license, when issued, shall be issued to the business organization upon payment of the appropriate

licensing fee and exhibition to the tax collector of a valid certificate issued by the board. The business organization's certified representative shall not be required, upon exhibition of this evidence, to take a municipal examination to prove competency to obtain a municipal license.

Section 9. Reciprocal certification.—The board shall have the authority to grant PCCLB certification to any person who holds a certificate or is registered or otherwise similarly licensed by any other municipality or county in the state.

Section 10. Renewal and restoration of certificates.—

(1) PCCLB certificates shall expire annually at midnight on September 30.

(2) Failure to renew the certificate during September shall cause the certificate to become inoperative, and it is unlawful thereafter for any person to engage or offer to engage or hold himself or herself out as engaging in contracting under the PCCLB certificate unless the certificate is restored or reissued.

(3) A certificate that is inoperative because of failure to renew shall be restored on payment of the proper renewal fee if the application for restoration is made by September 30 of the subsequent year. If the application for restoration is not made within the 1-year period, the fee for restoration shall be equal to the original application fee and, in addition, the board may require reexamination of the applicant.

(4) A person who is registered or holds a valid PCCLB certificate from the board may go on inactive status, during which time he or she shall not engage in contracting but may retain his or her certificate on an inactive basis on payment of an annual renewal fee during the inactive period.

Section 11. Fees.—

(1) The board is authorized to establish reasonable fees for PCCLB certification, examination, Board of Adjustment and Appeals hearings, annual renewal fees, and such other fees deemed necessary to accomplish the purposes of this act.

(2) Any funds received by the board from fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the county general revenue fund.

Section 12. Records.—

(1) All information required by the board of any applicant for a PCCLB certificate or journeymen shall be a public record, except that financial information and examination grades are confidential and shall not be discussed with anyone except members of the board and its staff, but the applicant is entitled to see his or her examination papers and grades. An applicant may waive in writing the confidentiality of his or her examination for the purpose of discussion at meetings of the board.

(2) If a PCCLB certificateholder changes his or her name style, address, or employment from that appearing on his or her

current certificate, he or she shall notify the board of the change within 30 days after it occurs.

(3) All examinations shall be retained for a period of 2 years from the date of the examination.

Section 13. Prohibitions; penalties.—

(1) No person shall:

(a) Falsely hold himself or herself out as a certificateholder;

(b) Falsely impersonate a certificateholder;

(c) Present as his or her own the certificate of another;

(d) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a PCCLB certificate;

(e) Use or attempt to use a certificate which has been suspended or revoked;

(f) Engage in the business or act in the capacity of a contractor or advertise himself or herself as available to engage in the business or act in the capacity of a contractor without being duly certified; or

(g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another qualifying agent.

(2) Any person who violates any of the provisions of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 14. Revocation or suspension of certificate.—

(1) On its own motion or the verified written complaint of any person, the board may investigate the action of any contractor certified under this act and hold hearings pursuant to law. When any complaint involves a contractor certified or registered under this act for acts or omissions occurring in any area of the county that has a local board, the board shall forward the complaint to the local board where the alleged violation occurred for its action. Where no local board exists, or when such local board waives its jurisdiction, the board shall take jurisdiction. The board may take appropriate disciplinary action if the contractor is found to be guilty of or has committed any one of the acts or omissions constituting cause for disciplinary action set out herein or adopted as rules or regulations by the board.

(2) The following acts constitute cause for disciplinary action:

(a) Obtaining a certificate by fraud or misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(c) Violation of chapter 455, Florida Statutes.

(d) Willfully or deliberately disregarding and violating the applicable building codes or laws of the state, the board,

or any municipality or county of this state.

(e) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder knows or has reasonable grounds to know that the person or entity was uncertified.

(f) Knowingly combining or conspiring with an uncertified person by allowing his or her certificate to be used by the uncertified person with the intent to evade the provisions of this act. When a certificateholder allows his or her certificate to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this act.

(g) Acting in the capacity of a contractor under any certificate issued hereunder except in the name of the certificateholder as set forth on the issued certificate, or in accordance with the personnel of the certificateholder as set forth in the application for the certificate, or as later changed as provided in this act.

(h) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the

contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 30 days after the date of such liens.

2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned.

3. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contactor and the customer.

(i) Being disciplined by any municipality or county for an act or violation of this act, which discipline shall be reviewed by the board before the board takes any disciplinary action of its own.

(j) Failing in any material respect to comply with the provisions of this act.

(k) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project is to be considered abandoned after 90 days if the contractor terminates the project without notification to the prospective owner and without just cause.

(l) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(m) Being found guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting.

(n) Proceeding on any job without obtaining applicable local building department permits and inspections.

(3) If a contractor disciplined under subsection (1) is a qualifying agent for a business organization and the violation was committed in connection with a construction project undertaken by that business organization, the board may impose an additional administrative fine not to exceed $1,000 against the business organization or against any partner, officer, director, trustee, or member if such person participated in the violation or knew or should have known of the violation and

failed to take reasonable corrective action.

(4) The board may specify by rule the acts or omissions which constitute violations of this section.

(5) The board is authorized to take the following disciplinary action:

(a) Suspend the certificateholder from all operations as a contractor during the period fixed by the board, but the board may permit the certificateholder to complete any contracts then uncompleted.

(b) Revoke a certificate.

(c) Impose an administrative fine or penalty not to exceed $1,000, which shall be recoverable by the board only in an action at law.

(d) Require restitution and impose reasonable investigative and legal costs.

(6) After suspension of the certificate on any grounds set forth in this section, the board may remove the suspension on proof of compliance by the contractor with all conditions prescribed by the board for removal of suspension, or, in the absence of the conditions, as in the sound discretion of the board.

(7) After revocation of a certificate, the certificate shall not be renewed or reissued for at least 1 year after revocation and then only on a showing of rehabilitation of the contractor. The lapse or suspension of a certificate by

operation of law or by order to the board or a court, or its voluntary surrender by a certificateholder, does not deprive the board of jurisdiction to investigate or act in disciplinary proceedings against the certificateholder.

(8) The board may restrain any violation of this act by action in a court of competent jurisdiction.

Section 15. Applicability.—

(1) Nothing in this act limits the power of a municipality or the county to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections that are designed to secure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

(2) Nothing in this act limits the power of a municipality or county to collect occupational license and inspection fees for engaging in contracting, or examination fees from persons who are registered with the board pursuant to local examination requirements.

(3) Nothing in this act limits the power of the municipalities or counties to adopt any system of permits requiring submission to and approval by the municipality or county of drawings and specifications for work to be performed by contractors before commencement of the work.

(4) Nothing in this act shall be construed to waive any

requirements of any existing local ordinance or resolution of the board of county commissioners regulating the type of work required to be performed by a specialty contractor.

(5) Any official authorized to issue building or other related permits shall ascertain that the applicant contractor is duly certified before issuing the permit. The evidence shall consist only of the exhibition to him or her of current evidence of certification.

(6) Municipalities or cities may continue to provide examinations for their territorial areas, provided that:

(a) To engage in contracting in the territorial area, an applicant must also be registered with the board.

(b) All local contractors' licensing boards or agencies shall transmit annually during August to the board the names of all local licensees, the status of the license, and a report of any disciplinary action taken against the licensee.

(c) A certificate has not been issued by the board.

(7) The right to create local boards in the future by any municipality or the county is preserved.

(8) This act applies to any contractor performing work for the state, county, or any municipality. They are required to determine compliance with this act before giving a commencement order on any of its contracts for construction, improvement, remodeling, or repair.

(9) If an incomplete contract exists at the time of death

of a contractor, the contract may be completed by any person even though not certified. The person shall notify the board within 30 days after the death of the contractor of his or her name and address. For purposes of this subsection, an incomplete contract is one which has been awarded to, or entered into by, the contractor before his or her death or on which he or she was the low bidder and the contract is subsequently awarded to him or her regardless of whether any actual work has commenced under the contract before his or her death.

Section 16. Exemptions.—This act does not apply to:

(1) Contractors who work exclusively on bridges, roads, streets, highways, railroads, or utilities and services incidental thereto.

(2) Any employee of a certificateholder who is a subordinate of such certificateholder if the employee does not hold himself or herself out for hire or engage in contracting except as an employee.

(3) An authorized employee of the United States, Florida, or any municipality or county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state as long as the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment.

(4) An officer appointed by a court when he or she is acting within the scope of his or her office as defined by law

or court order. When construction projects that were not underway at the time of appointment of the officer by the court are undertaken, he or she shall employ or contract with a certificateholder.

(5) Public utilities on construction, maintenance, and development work performed by their forces and incidental to their business.

(6) The sale or installation of any finished products, materials, or articles or merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, except for spas or inground swimming pools with a capacity in excess of 200 gallons, and for above-ground swimming pools with a capacity in excess of 200 gallons that involve excavation, plumbing, chemicals, or wiring of any appliance without a factory-installed electrical cord and plug. This subsection shall not be construed to limit the exemptions provided in subsection (7).

(7) Owners of property building or improving one or two-family residences thereon for the occupancy of such owners and not offered for sale. In all actions brought under this act, proof of the sale or offering for sale of more than one such structure by the owner-builder within 1 year after completion of same is prima facie evidence that such structure was undertaken for purposes of sale. This subsection does not exempt any person who is engaged by such owner or any person other than the owner

who acts in the capacity of a contractor.

(8) Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States, or to any construction, alteration, improvement, or repair on any project where federal law supersedes this act.

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than $500, but this exemption does not apply:

(a) If the construction, repair, remodeling, or improvement is a part of a larger or major operation whether undertaken by the same or a different contractor or in which a division of the operation is made in contracts of amounts less than $500 for the purpose of evading this act or otherwise.

(b) To a person who advertises as a contractor or otherwise represents or exhibits by any manner or device that he or she is qualified to engage in contracting.

(10)(a) Any construction or operation incidental to the construction or repair of irrigation and drainage ditches;

(b) Regularly constituted irrigation districts or reclamation districts; or

(c) Clearing or other work on the land in rural districts for fire prevention purposes or otherwise, except when performed by a certificateholder or registrant under this act.

(11) A registered architect or engineer acting in his or her professional capacity.

(12) Any person who only furnishes materials or supplies without fabricating them into or consuming them in the performance of the work of the contractor.

(13) Any person as defined and licensed under chapter 527, Florida Statutes, when such person is performing the work authorized by such license.

(14) Any person who is certified under chapter 489, Florida Statutes.

Section 17. It is the intent of the Legislature to provide for uniform building codes and uniform life safety codes for Pinellas County. It is further the intent of the Legislature to provide for continuing uniformity of the aforementioned codes by placing the sole authority for making technical amendments to the codes, applicable within the boundaries of Pinellas County, with the Pinellas County Construction Licensing Board.

Section 18. For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location, and maintenance of buildings and structures, Pinellas County hereby recognizes as applicable to the county the codes known as:

(1) The Florida Building Code, as may be amended or updated pursuant to general law.

(2) The applicable version of the National Fire Protection

Association Life Safety Code 101 adopted through the provisions of the Florida Fire Prevention Code or adopted pursuant to the powers of the Florida State Fire Marshal as described in Florida Administrative Code s. 4A-60, as either may be subsequently amended.

Copies of all amendments or variations thereto adopted by the board pursuant to the provisions of Section 19 shall be filed with and available for inspection at the office of the board.

Section 19. The board shall have the power to amend the codes from time to time, subject to the requirements of s. 553.73(4), Florida Statutes, and may adopt variations for different areas of the county if the variations are justified under the procedures contained herein and in s. 553.73, Florida Statutes. Before making any amendment or variation, the board shall refer the proposed amendment to the appropriate county-wide Board of Adjustment and Appeals described in Section 22 for study and recommendations. The board shall then hold a public hearing on the proposed amendment or variation and shall reject, adopt, or defer action upon the recommendation of the Board of Adjustment and Appeals. A two-thirds vote of the board is required to reject any recommendation of the Board of Adjustment and Appeals. The board may adopt amendments to the codes that are necessary as a condition precedent to any federal or state-sponsored program, and the governing body of any municipality or

the county may adopt amendments to the administrative chapter of the Florida Building Code. For the purposes of s. 553.73, Florida Statutes, and chapter 98-287, Laws of Florida, as amended by chapter 98-419, Laws of Florida, and chapter 2001-186, Laws of Florida, and as may be subsequently amended, the Pinellas County Construction Licensing Board shall be the sole local governing body authorized to make technical amendments to the Florida Building Code or the version of the National Fire Protection Association Life Safety Code 101 as described in Section 18 and is deemed to be the county-wide compliance review board for Pinellas County as required by s. 553.73(4)(f), Florida Statutes. The PCCLB shall likewise be the local administrative board for the provision of interpretations upon request of local building officials and for the resolution of conflicts of interpretations between local building officials and local fire code enforcement officials. The resolution of these disputes shall be in accordance with applicable general law. The decision of the board interpreting a code, resolving a conflict of interpretation, or adopting an amendment following a recommendation by the applicable Board of Adjustment and Appeals shall be the final local determination of the matter which is subject to the appeal to the Florida Building Commission pursuant to s. 553.73, Florida Statutes, or the State Fire Marshal pursuant to chapter 633, Florida Statutes.

Section 20. Except as provided in this law for amendments

and variations, the codes shall be exclusively controlling in the construction of all buildings and structures within Pinellas County, and no municipality or the county shall adopt any technical amendments, ordinances, rules, or regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location, and maintenance of buildings and structures that conflict with the codes as amended.

Section 21. Inspection and enforcement of the codes shall be effected by the county, the municipalities in Pinellas County, or the authorized designees of either.

Section 22. (1) The board shall create four Boards of Adjustment and Appeals as follows:

(a) A plumbing, mechanical, and gas Board of Adjustment and Appeals consisting of one mechanical engineer, two plumbing contractors, two natural gas contractors, and two mechanical or Class A air conditioning contractors. This Board of Adjustment and Appeals shall have the powers and duties specified in subsection (2) for appeals relating to plumbing, mechanical, and gas provisions of the Florida Building Code.

(b) An electrical Board of Adjustment and Appeals consisting of one electrical engineer, two electrical contractors, and one member of the building industry at large. This Board of Adjustment and Appeals shall have the powers and duties provided in subsection (2) for appeals relating to the electrical code.

(c) A Board of Adjustment and Appeals for the Florida Building Code provisions not falling within the jurisdiction of the board created by subsection (a) or subsection (b).

(d) A life safety and fire code Board of Adjustment and Appeals consisting of two active fire marshals, two active building officials, and a fifth member to be selected from the joint recommendation of the fire marshals and building officials comprising such Board of Adjustment and Appeals.

(2) Any appeal which may be brought before either the Board of Adjustment and Appeals for the Florida Building Code or the Board of Adjustment and Appeals for the Life Safety and Fire Code shall be referred to the latter. The Board of Adjustment and Appeals for the Life Safety and Fire Code shall determine whether it has jurisdiction over said appeal. Upon a determination that said board has no jurisdiction, the appeal shall be considered by the Board of Adjustment and Appeals for the Florida Building Code. The Boards of Adjustment and Appeals shall meet as frequently as is required but not less often than once every 3 months. Members of the boards shall serve without compensation. Any person aggrieved by a ruling of a building director or a fire marshal or other fire official of any municipality or of the county, or any building director or fire marshal or other fire official desiring interpretation of a code, may file a written appeal to the proper Board of Adjustment and Appeals. However, if the municipality in which

the dispute occurred has established a Board of Adjustment and Appeals, the aggrieved party must first appeal to the municipal board. After a decision is rendered by the municipal board, the aggrieved party shall have 15 days to file the appeal provided for in this subsection. The decision of the boards shall be furnished to the appealing party in writing within 15 days after the meeting at which the appeal was considered. The decisions of the boards are subject to appeal pursuant to s. 553.73, Florida Statutes.

Section 23. Each Board of Adjustment and Appeals shall have authority to interpret its respective code adopted for the county. Interpretations of the codes shall be based upon specific findings of fact and may be made when any provision of the code is ambiguous as applied to an activity subject to the code or to allow alternate material and types of construction if found to be in conformity with the intent of said code. The codes shall be interpreted liberally to provide safe, economic, and sound buildings and structures in the county. Code interpretations of any Board of Adjustment and Appeals made under this section shall be final administrative actions and shall not be subject to review by the board. Final decisions of the board or any Board of Adjustment and Appeals shall be based upon substantial competent evidence and shall be subject to review by the Florida Building Commission or the Florida State Fire Marshal.

Section 4. Chapters 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-179, and 2019-184, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1537 Vacation Rentals
SPONSOR(S): Griffitts
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 280

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

SUMMARY ANALYSIS

The Division of Hotels and Restaurants (Division) in the Department of Business and Professional Regulation (DBPR) licenses and inspects vacation rentals within the state. A vacation rental is classified as any unit or group of units in a condominium or cooperative or any individually or collectively owned home, not a timeshare project, which is **rented to guests more than three times in a calendar year** for periods of less than 30 days or 1 calendar month, or advertised to the public as a place regularly rented to guests. Local governments may not prohibit vacation rentals or regulate the duration or frequency of such rentals. Local regulations adopted before June 1, 2011, are not subject to this prohibition.

The bill:

- Adds to the scope of the state preemption of public lodging establishments and public food service establishments by preempting "licensing" regulations, and revises the scope of the express state preemption on vacation rentals to allow local jurisdictions to amend local regulations to:
  - Be less restrictive; or
  - Comply with local registration requirements.
- Allows local governments to:
  - Create a local vacation rental registration program.
  - Charge a registration fee not to exceed $150 for processing an individual registration application.
  - Fine vacation rental operators up to $300, file and foreclose on a lien based on the fine, suspend registrations, and revoke or refuse to renew a registration, for violations of the local registration requirements.
- Preempts to the state the regulation of advertising platforms, requires users of advertising platforms to provide license and registration information in a vacation rental listing, requires advertising platforms to collect and remit certain taxes and adopt an antidiscrimination policy.
- Grants the Division certain enforcement mechanisms relating to unlicensed activities.
- Requires the Division to create and maintain a vacation rental license information system to allow local governments to notify the Division of suspensions and terminations, verify the license and local registration status of a vacation rental, and registered user to subscribe to receive notification of changes to the license or registration of a vacation rental.
- Specifically, does not supersede the authority of condominiums, cooperatives, or homeowners' associations to restrict the use of their properties.
- Requires vacation rental operators to display license and registration information.

The bill may have in indeterminate fiscal impact on state and local government, and the private sector.

Except as otherwise provided, the effective date of the bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Vacation Rentals

The Division of Hotels and Restaurants (Division) within the Department of Business and Professional Regulation (DBPR) is charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. DBPR licenses vacation rentals within the state and has the power to inspect a licensed vacation rental.[1]

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.[2]

The term "public lodging establishments" includes transient and nontransient public lodging establishments.[3] The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

The term "transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.[4]

The term "vacation rental" means any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.[5]

Current law exempts from licensing requirements living or sleeping facilities that do not fit within the classification of a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment.[6] Currently, the classification for "vacation rental" only applies to situations where the entire unit or dwelling is offered for rent; therefore the rental of individual rooms within a condominium unit or house is excluded from the licensure and regulation of public lodging establishments by the Division.[7]

Licensure

The Division is authorized to issue vacation rental licenses as follows:

- Single license: issued to an individual person or entity, but not a licensed agent, and may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity.
- Group license: issued to a licensed agent to cover all units within a building or group of buildings in a single complex and only covers units held out to the public as a place regularly rented to guests.

[1] S. 509.241, F.S.
[2] S. 509.242(1), F.S.
[3] S. 509.013(4)(a), F.S.
[4] S. 509.013(4)(a)1., F.S.
[5] S. 509.242(1)(c), F.S.
[6] S. 509.013(4)(b)9., F.S.
[7] *See* 18-06 Fla. Op.Att'y Gen. (2018).

- Collective license: issued to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses per license.[8]

Applicants for licensure must submit the appropriate application and required fee to the Division. The license fees are based on the number of rental units in the establishment. A current license must be conspicuously displayed in the office or lobby of the licensed establishment.[9] If no office or lobby is present on the premises of the licensed establishment, the license must be readily available for inspection upon request.[10]

Currently, there are 63,690 public lodging establishments licensed by the Division. These licenses are distributed as follows:[11]

- Hotels: 2,308 licenses;
- Motels: 2,397 licenses;
- Non-transient apartments: 18,315 licenses;
- Transient apartments: 913 licenses;
- Bed and Breakfast Inns: 261 licenses;
- Vacation rental condominiums: 12,716 licenses;
- Vacation rental dwellings: 26,733 licenses; and
- Vacation rental timeshare projects: 47 licenses.

License Fees

The Division provides the following fee schedule relating to vacation rentals:[12]

- Vacation rentals/collective license.

BASIC FEE	PER UNIT FEE	HEP FEE[13]	TOTAL FEE
$150	$10	$10	VARIES

- Vacation rentals/group and single license.

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	$150	$10	$10	$170
2-25	$150	$20	$10	$180
26-50	$150	$35	$10	$195
51-100	$150	$50	$10	$210
101-200	$150	$75	$10	$235
201-300	$150	$105	$10	$265
301-400	$150	$135	$10	$295
401-500	$150	$160	$10	$320
OVER 500	$150	$190	$10	$350

Applicants for initial licensure are required to pay the full license fee if the application is made during, or more than six months before, the annual renewal period. A half-year fee is authorized if such application is made 6 months or less before the renewal period. A $50 application fee is required when making the initial application or an application for change of ownership. Renewal fees are based upon the number of units under the license when the license was either issued or last renewed, whichever is

[8] S. 509.241, F.S.
[9] S. 509.241(3), F.S.
[10] R. 61C-1.002(1), F.A.C.
[11] DBPR, *Division of Hotels and Restaurants Annual Report for FY 2021-2022*, p. 8, http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2021_22.pdf (last visited Jan. 26, 2024).
[12] R. 61C-1.008, F.A.C.
[13] S. 509.302, F.S., establishes the Hospitality Education Program. All public lodging establishments and all public food service establishments licensed under ch. 509, F.S., are required to pay an annual fee of no more than $10, which shall be included in the annual license fee and used for the sole purpose of funding the Hospitality Education Program.

most recent. A $50 delinquency fee is required to renew a delinquent license filed with the Division after the expiration date.

Sanitation and Safety

Current law requires each public lodging establishment to meet requirements and standards relating to sanitation and safety.[14] These requirements and standards apply to the following:

- Water, plumbing and waste;
- Public bathrooms (vacation rentals are exempt from this requirement);
- Towels;
- Glassware, tableware, and utensils (vacation rentals are exempt from federal and state standards but must sanitize with household cleaning supplies and provide notice of such in guest rooms);
- Kitchens;
- Ice making machines;
- Locking devices;
- Vermin control;
- Storage and labeling of toxic items;
- Structural components, attachments, and fixtures; and
- Attics, basements, boiler rooms, meter rooms, laundry rooms, and storage rooms.

Ventilation and Fire Safety

Each bedroom in a public lodging establishment must be properly ventilated with windows or mechanical ventilation.[15] Specialized smoke detectors for the deaf and hearing-impaired must be made available upon request by guests in transient public lodging establishments without charge.[16]

In addition, smoke alarms must be installed in every living unit,[17] and automatic fire sprinklers may be required in public lodging establishments if the rental units are located within a building with three or more stories or greater than 75 feet in height.[18] All local fire authority requirements must be met. Electrical wiring must be in good repair.

Conduct on Premises

The operator of a public lodging establishment is authorized to refuse accommodations or service to undesirable guests.[19] Subject to proper notification, an operator may remove guests who:

- Illegally possess or deal controlled substances;
- Are intoxicated;
- Are profane, lewd, or brawling;
- Disturb the peace and comfort of other guests;
- Injure the reputation, dignity, or standing of the establishment;
- Fail to pay rent on time;
- Fail to check out on time;
- Are generally detrimental to the establishment.[20]

The admission to, or the removal from, a public lodging establishment cannot be based upon race, creed, color, sex, physical disability, or national origin.[21]

[14] *See generally* s. 509.221, F.S., and R. 61C-1&3, F.A.C.
[15] S. 509.221(3), F.S.
[16] R. 61C-1.004, F.A.C.
[17] S. 509.215(1)(b), F.S.
[18] S. 509.215(1), F.S.
[19] S. 509.142, F.S.
[20] S. 509.141(1), F.S.
[21] S. 509.141(1), F.S.

Violations for remaining or attempting to remain in an establishment after being requested to leave are a second-degree misdemeanor, punishable as provided in ss. 775.082 or 775.083, F.S.[22]

In addition, an operator is authorized to take a person into custody and detain that person for disorderly conduct that creates a threat to the life or safety of the person or others. The operator is required to call a law enforcement officer to the scene immediately after detaining a person under this provision.[23]

Inspections

The Division is required to inspect all public lodging establishments as often as necessary for the enforcement of the law and protection of the public health, safety and welfare. **Each licensed public lodging establishment must be inspected at least biannually (twice per year)**, except for transient and non-transient apartments, which must be inspected at least annually.[24]

Vacation rentals are not subject to this requirement, but must be available for inspection upon a request by the Division. For inspection purposes, the licensee or operator must, upon request, meet the inspector at the site of a specified establishment with keys to the licensed house or unit being inspected.[25]

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways from a person competent to conduct such inspections.[26]

The Division also may inspect a vacation rental in response to a consumer complaint related to sanitation issues or unlicensed activity. In Fiscal Year 2021-2022, the Division received 325 consumer complaints related to vacation rentals, of which 34 were confirmed as a violation by the Division.[27]

Registry

The licensee or operator of a vacation rental must notify the Division of any and all houses or units represented for inclusion in the license application. Anytime a change occurs in the street or unit address or number of houses or units included under the license, the licensee or operator must notify the Division of any and all houses or units included in the license at least 60 days prior to the expiration date of the license. In addition, a list of the included houses or units must be maintained in a written form for inspection by request.[28]

Each operator of a transient establishment must maintain a register showing the dates each rental unit was occupied by a guest as well the rates charged to the occupants. This register must be maintained in chronological order and available for inspection by the Division at any time. Operators must maintain two years of register data.[29]

Violations

Any public lodging establishment found to be in violation of ch. 509, F.S., or rules adopted by the Division, may be subject to administrative actions including the following penalties:

- Fines not to exceed $1,000 per offense; and
- Suspension, revocation, or refusal of a license.[30]

[22] S. 509.141(3), F.S.
[23] S. 509.143(1), F.S.
[24] *See generally* s. 509.032, F.S., r. 61C-1.002, F.A.C.
[25] *Id.*
[26] *See* ss. 509.211(3), 509.2112, F.S., and r. 61C-3.001, F.A.C.
[27] DBPR, *supra* note 11, at 21.
[28] R. 61C-1.002, F.A.C.
[29] S. 509.101(2), F.S.
[30] S. 509.261(1), F.S.

Preemption Authority

Prior to June 1, 2011, local governments regulated vacation rentals (also referred to as resort dwellings in many local ordinances). Local governments could restrict or prohibit vacation rentals up to, and including, banning the use of residential properties as vacation rentals.

Legislation in 2011 preempted the authority to regulate vacation rentals to the state.[31] The preemption prevented local governments from enacting any new law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.

The 2011 preemption also "grandfathered" any local law, ordinance, or regulation of vacation rentals enacted on or prior to June 1, 2011.[32]

Prior to the 2011 preemption, several municipalities had created regulations specifically relating to vacation rentals.[33] As an example, one ordinance prohibited owners of single-family residences in residential zones from renting their properties for durations of less than 30 days, although it grandfathered certain vacation rentals that had already obtained all applicable state and local licenses and permits.[34] Subsequent to the enactment of the 2011 legislation, the vacation rental market experienced growth.[35]

In 2014, the Legislature narrowed the scope of the preemption to preempt only those local regulations that:

- Prohibit vacation rentals; or
- Regulate the duration or frequency of vacation rentals.

Thus, local governments can regulate vacation rentals to the extent those regulations do not prohibit vacation rentals, or restrict the duration or frequency of vacation rentals. The grandfather provision for regulations adopted on or before June 1, 2011, was retained.[36]

This preemption does not apply to local regulations exclusively relating to "property valuation as a criterion for vacation rental if the local regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern."[37]

In addition, the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. However, local governments or local enforcement districts are still allowed to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code.[38]

Local Ordinances

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[31] Ch. 2011-119, Laws of Fla., codified in s. 509.032(7), F.S.
[32] *Id.*
[33] *See* City of Venice Code of Ordinances, ch. 86, art. V, div. 9, s. 86-151. *See also* Monroe County Code, No. 004-1997 (2013); Bal Harbour Village Code of Ordinances, s. 21-363.
[34] City of Venice Code of Ordinances, ch. 86, art. V, div. 9, s. 86-151. *See also City of Venice v. Gwynn*, 76 So. 3d 401, 403 (Fla. 2nd DCA 2011).
[35] Florida Today, *Explosion of vacation rentals in Cocoa Beach leaves residents frustrated and angry* (Oct. 5, 2023), https://www.floridatoday.com/story/news/local/2023/10/05/cocoa-beach-impacts-vacation-rental-growth-airbnb-vrbo-brevard-florida/70767082007/ (last visited Jan. 26, 2024).
[36] Ch. 2014-71, Laws of Fla., codified in s. 509.032(7)(b), F.S.
[37] S. 509.032(7)(c), F.S.
[38] S. 509.032(7)(a), F.S.

Currently, many local jurisdictions in Florida regulate vacation rentals. These counties and cities typically require some type of registration or certification, along with certain other requirements, including, but not limited to, fees, occupancy limits, and parking, noise, and garbage restrictions that are separate from such requirements and restrictions for other residential properties.

Flagler County

Flagler county has adopted an ordinance that regulates short term vacation rentals through a "certificate" program. The program allows such rentals in all residential zoning districts in the county. The ordinance defines such rentals as a "commercial business… of a single-family or a two-family dwelling..." Fees for initial certification are $400, renewals are $200, and inspections can be up to $200.[39]

Vacation rental owners, in part, must obtain a certificate and business tax receipt from the county, a Department of Revenue (DOR) certificate of registration, and a DBPR license as a transient public lodging establishment. The ordinance provides minimum life/safety requirements such as swimming pool, smoke detection, and emergency lighting requirements. The ordinance provides parking and solid waste requirements, initial and routine compliance inspections, and a responsible party requirement.[40]

The maximum occupancy requirements are one person per 150 gross square feet of permitted, conditioned living space, or in accordance with the maximum occupancy of a septic tank permit, or two persons per sleeping room plus two additional persons in a common area.[41]

Penalties for violations, include warnings for first time violations, and up to $500 per repeat violations. The ordinance also allows the county to seek other remedies such as injunctive relief, liens, and other civil and criminal penalties.[42]

Sarasota

The City of Sarasota has adopted an ordinance that regulates short term vacation rentals through a "certificate of registration" program. The ordinance allows such rentals within residential zoning districts in the city limits. The ordinance defines "vacation rental" as a rental as defined in F.S. ss. 509.242(1)(c) and 509.013(4)(a)(1), F.S., excluding those vacation rentals in condominiums and cooperatives and which is located in a residential zone within the coastal islands overlay district. Fees for an initial certificate of registration are $500, renewals are $350, and inspections can be up to $200.[43]

The ordinance requires vacation rental owners, in part, to obtain a copy of their business tax receipts from the city and county, evidence of an active account with the tax collector, a copy of the current DBPR vacation rental license, and a copy of the DOR certificate of registration. The ordinance provides minimum safety, minimum informational, parking, designated responsible party, and advertising requirements.[44]

The maximum occupancy in residential single-family zone districts is two persons per bedroom, plus two additional persons per property or ten persons, whichever is less. Maximum occupancy in residential multiple-family zone districts it two persons per bedroom, plus two additional persons per property or twelve persons, whichever is less. Children under six years of age are not included in the calculation of maximum occupancy. The ordinance also provides a minimum stay requirement of 7 days and 7 nights.[45]

[39] Flagler County Ordinance No. 2016-01.
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] City of Sarasota Ordinance No. 34.5.
[44] *Id.*
[45] *Id.*

The ordinance provides penalties that apply for each day a violation occurs, including fines and suspensions. The City's Code Compliance addresses complaints related to unsupervised vacation rentals, including but not limited to, over-occupancy, open and late-night parties, excessive noise, parking on public sidewalks and excessive trash and garbage accumulation. Fines for initial violations can be up to $1,000 per day, repeat violations can be up to $5,000 per day, and violations that are irreparable or irreversible in nature can be $15,000. In addition to any fines and any other remedies provided by law, a special magistrate may, in his or her discretion, suspend an initial or renewed certificate of registration for a vacation rental upon request.[46]

Recent Activity

Homeowners found to be in conflict with ordinances regulating vacation rentals have taken legal action against their respective local governments through the Bert J. Harris, Jr., Private Property Rights Protection Act.[47] The act provides a cause of action for private property owners whose real property has been inordinately burdened by a specific action of a governmental entity that may not rise to the level of a "taking" under the State or Federal Constitutions. The inordinate burden can apply to either an existing use of real property or a vested right to a specific use.[48]

Anna Maria

In November 2015, the City of Anna Maria passed and adopted an ordinance that provides a general framework for the regulation of vacation rentals, including maximum occupancy requirements. According to the city's website, since April 2016, approximately 113 Bert Harris Act claims relating to the ordinance have been filed that could amount to approximately $38 million in damages. The City of Anna Maria website provides that the majority of these claims have been closed.[49]

Holmes Beach

Recent reports indicate that the City of Holmes Beach in Anna Maria Island settled similar claims in 2021. According to reports, the city agreed to allow property owners to build homes with more bedrooms than current ordinances allow. One property owner will be permitted to build an eight bedroom house while the city ordinance limits bedrooms to four. Other claims related to occupancy were decided by the courts. Local ordinances limit two people per bedroom. Attorney fees for the city related to these claims were paid for by the Florida League of Cities.[50]

Miami Beach

In March 2016, Miami Beach, which bans all short-term rentals, passed an ordinance making the fine for a first violation for a resident caught renting short-term $20,000. Each subsequent fine increases by $20,000 and can be as high as $100,000. Vacation/short-term rentals that are permitted in certain zoning districts of Miami Beach are required to provide and conspicuously display the city-issued business tax receipt number and the resort tax certificate number in every advertisement or listing of any type in connection with the rental of the residential property.[51] In June 2018, it was reported that

[46] *Id.*
[47] Kathy Prucnell, *2 more Holmes Beach Bert Harris claims proceed to courthouse*, The Islander(Feb. 20, 2018), https://www.islander.org/2018/02/2-more-holmes-beach-bert-harris-claims-proceed-to-courthouse/ (last visited Jan. 26, 2024).
[48] S. 70.001, F.S.
[49] City of Anna Maria, *Bert J. Harris, Jr., Private Property Rights Protection Act Claim Filings*, http://www.cityofannamaria.com/residents/bert_harris_claim.php (last visited Jan. 26, 2024).
[50] Kristin Swain, Bert Harris cases come to a close in Holmes Beach, Amisun (Nov. 1, 2021), https://www.amisun.com/2021/11/01/bert-harris-cases-come-to-a-close-in-holmes-beach/#:~:text=HOLMES%20BEACH%20%E2%80%93%20After%20more%20than,were%20too%20generous%20to%20developers. (last visited Jan. 29, 2024).
[51] *See* Miami Beach City Code, Sec. 142-1111 and 142-905(b).

Miami Beach had issued $12.1 million in fines, only $174,000 of which had been paid. Some vacation rental owners were reported to have accumulated up to $60,000 in fines.[52]

Since then, the Third District Court of Appeal invalidated the city's fine structure after determining the regulations conflict with state law that caps violation fines between $1,000 and $5,000.[53] As a result, the city has left the regulations in place and simply revised the fine structure. First-time offenders are fined $1,000 a day, and repeat offenders are fined $5,000 per day. According to a memo from the city attorney, the new fine structure complies with the ruling against Miami Beach.[54]

Condominiums, Cooperatives, and Homeowners' Associations

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., comprised of units which may be owned by one or more persons but have an undivided share of access to common elements.[55] A condominium is created by recording a declaration in the public records of the county in which the condominium will be located.[56] A declaration governs the relationships among condominium unit owners and the condominium association. All unit owners are members of the condominium association. The condominium association is overseen by an elected board of directors, commonly referred to as a "board of administration." The association enacts condominium association bylaws governing the administration of the association. The declaration as originally recorded or as amended may include covenants and restrictions concerning the use, occupancy, and transfer of the units in the association.

A cooperative is a form of property ownership created pursuant to ch. 719, F.S., where real property is owned by the cooperative association, and individual units are leased to the residents who own shares in the cooperative association.[57] The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives operate similarly to condominiums and the laws regulating cooperatives are similar in many ways. A cooperative is created using "cooperative documents" which include articles of incorporation of the association, bylaws, and the ground lease or other underlying lease, if any. The documents may include restrictions, which affect the use of the property.

A homeowners' association (HOA) is an association of residential property owners, created pursuant to ch. 720, F.S., where voting membership consists of parcel owners, membership is a mandatory condition of parcel ownership, and which may impose assessments that, if unpaid, can become a lien on the parcel.[58] Chapter 720, F.S., only regulates HOAs whose covenants and restrictions include mandatory assessments. Like a condominium or cooperative, an HOA is administered by an elected board of directors. The powers and duties of an HOA includes those provided in ch. 720, F.S., and contained in the governing documents of the association. The governing documents include the recorded covenants and restrictions, bylaws, articles of incorporation, and duly adopted amendments to those documents. The documents may include restrictive covenants governing the use and occupancy of properties.

Based on these laws, condominium, cooperative, and homeowners' associations may enact provisions that restrict the ability of the property owners to rent their properties.[59] This includes actions such as

[52] Chabeli Herrera, *Miami Beach has the country's highest short-term rental fines. It just got sued,* Miami Herald (June 28, 2018), https://www.miamiherald.com/news/business/article213954174.html (last visited Jan. 26, 2024).
[53] Francisco Alvarado, *Miami-Dade judge strikes down Miami Beach short-term rental ban*, TheRealDeal South Florida Real Estate News (Oct. 8, 2019), https://therealdeal.com/miami/2019/10/08/miami-dade-judge-strikes-down-miami-beach-short-term-rental-ban/ (last visited Jan. 26, 2024).
[54] Francisco Alvarado, *Miami Beach slashes fines for illegal short-term rentals*, TheRealDeal South Florida Real Estate News (Oct. 14, 2019), https://therealdeal.com/miami/2020/10/14/miami-beach-slashes-fines-for-illegal-short-term-rentals/ (last visited Jan. 26, 2024).
[55] S. 718.103(11), F.S.
[56] S. 718.104(2), F.S.
[57] S. 719.103(2)(26), F.S.
[58] S. 720.301(9), F.S.
[59] Motley Fool, *Can an HOA Restrict Rentals? (Spoiler Alert: Yes)*, https://www.fool.com/millionacres/real-estate-investing/rental-properties/can-hoa-restrict-rentals-spoiler-alert-yes/# (last visited Jan. 26, 2024).

prohibiting owners from renting their properties, restricting the duration of the rental term, or limiting the frequency owners are allowed to rent their properties.

Effect of the Bill

Preemptions

Scope

The bill adds to the scope of the state preemption of public lodging establishments and public food service establishments, by also preempting "licensing."

The bill revises the scope of the express state preemption on vacation rentals to allow local jurisdictions to adopt local regulations:

- As long as the regulation is less restrictive; or
- To comply with local registration requirements.

The bill also preempts the regulation of advertising platforms to the state.

Exemptions

The bill maintains the exemption to the preemption that allows only local ordinances adopted on or before June 1, 2011, to remain in effect. Additionally, the bill allows a local government to pass such regulations after June 1, 2011, if they are less restrictive than what was in effect on June 1, 2011.

The bill maintains the exemption to the preemption for areas of critical state concern so that these areas remain fully exempted from the preemption, and may have existing ordinances that were adopted after June 1, 2011.

Regulation of Vacation Rentals by Local Government

Registration

The bill authorizes local laws, ordinances, or regulations to require the registration of vacation rentals with a local vacation rental registration program.

The bill authorizes local governments to implement such a program and impose a fine for failure to register under the program.

The bill specifies that it does not prohibit a local government from establishing a local law, ordinance, or regulation if it is uniformly applied without regard to whether the residential property is used as a vacation rental.

Fees

The bill allows a local government to charge a fee of no more than $150 per unit for processing a registration application.

The bill allows a local law, ordinance, or regulation to:

- Require annual renewal of a registration; and
- Charge a renewal fee of no more than $50 per unit for processing of a registration renewal.

The bill specifies that if there is a change of ownership, the new owner may be required to submit a new application for registration.

The bill provides that subsequent to the registration of a vacation rental, a local government may charge a reasonable fee to inspect a vacation rental after registration for compliance with the Florida

Building Code and the Florida Fire Prevention Code, described in ss. 553.80 and 633.206, F.S., respectively.

Conditions for Registration

The bill provides that as a condition of registration or renewal of a vacation rental, a local law, ordinance, or regulation establishing a local vacation rental registration program may require the operator of a vacation rental to do only the following:

- Submit identifying information about the owner and the owner's operator, if applicable, and the subject vacation rental premises.
- Provide proof of a license with the unique identifier issued by the Division to operate as a vacation rental.
- Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue (DOR), a county, or a municipality.
- Update required information on a continuing basis to ensure it is current.
- Designate and maintain at all times a responsible party who is capable of responding to complaints or emergencies related to the vacation rental, including being available by telephone at a provided contact telephone number 24 hours a day, 7 days a week, and receiving legal notice of violations on behalf of the operator.
    - The responsible party has until 9 a.m. the next calendar day to respond to a complaint or emergency by telephone or otherwise.
- State the maximum occupancy of the vacation rental based on the number of sleeping accommodations for persons staying overnight in the vacation rental.
- Pay in full all recorded municipal or county code liens against the subject vacation rental premises.

Review and Acceptance

The bill requires that within 15 business days after receiving an application for registration of a vacation rental, a local government must review the application for completeness and accept the registration of the vacation rental or issue a written notice of denial.

The bill provides that a vacation rental owner or operator and the local government may agree to a reasonable request to extend the timeframes, particularly in the event of a force majeure or other extraordinary circumstance.

The bill provides that:

- If the local government fails to accept the registration within the timeframes provided, the application is deemed accepted.
- If a local government denies a registration of a vacation rental, the local government must give written notice to the applicant. Such notice:
    - May be provided by United States mail or electronically.
    - Must specify with particularity the factual reasons for the denial and include a citation to the applicable portions of the ordinance, rule, statute, or other legal authority for the denial of the registration.
- A local government may not prohibit an applicant from reapplying if the applicant cures the identified deficiencies.

The bill requires, upon an accepted vacation rental registration, a local government to assign a unique registration number to the vacation rental unit and provide the registration number or other indicia of registration to the vacation rental operator in writing or electronically.

The bill requires a vacation rental operator to provide the vacation rental registration number to the Division within 5 days after receipt of the registration number.

Local Government Enforcement and Remedies

Fines and Liens

The bill allows a local government to fine a vacation rental operator up to $300 if he or she:

- Fails to continue to meet the registration requirements; or
- Is operating a vacation rental without registering with the local government as a vacation rental.

Regarding the process for a local government to fine a vacation rental operator, the bill:

- Allows a certified copy of an order imposing a fine to be recorded in the public records and thereafter constitutes a lien against the real property on which the violation exists and upon any other real or personal property owned by the violator.
- Specifies that upon petition to the circuit court, such order is enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order may not be deemed to be a court judgment except for enforcement purposes.
- Requires the fine to continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed pursuant to this provision, whichever occurs first.
- Provides that a lien arising from such a fine runs in favor of the local government, and the local government is authorized to execute a satisfaction or release of lien.
- Provides that three months or more after the filing of any such lien that remains unpaid, the local government is authorized to foreclose on the lien against the real property on which the violation exists or sue to recover a money judgment for the amount of the lien, plus accrued interest.
- Provides that a lien created pursuant to this part may not be foreclosed on real property that is a homestead under s. 4, Art. X of the State Constitution.
- Specifies that the money judgment provisions of this provision do not apply to real property or personal property that is covered under s. 4(a), Art. X of the State Constitution.[60]

Registration Suspensions

The bill provides that if a vacation rental owner is found by the code enforcement board or special magistrate to have materially violated a local law, ordinance, or regulation that does not solely apply to vacation rentals and the violation is directly related to the owner's vacation rental premises:

- The local government must issue a written notice of such violation.
- The code enforcement board or special magistrate must make a recommendation to the local government as to whether an owner's vacation rental registration should be suspended.
- The code enforcement board or special magistrate must recommend the suspension of the owner's vacation rental registration if the owner is found to have one or more violations, as follows:
    - On 5 separate days during a 60-day period;
    - On 5 separate days during a 30-day period; or
    - After two prior suspensions of an owner's vacation rental registration.
- If the code enforcement board or special magistrate recommends suspension of an owner's vacation rental registration, the local government is authorized to suspend such registration for a period of:
    - Up to 30 days for one or more violations on 5 separate days during a 60-day period;
    - Up to 60 days for one or more violations on 5 separate days during a 30-day period; or
    - Up to 90 days for one or more violations after two prior suspensions of an owner's vacation rental registration.

[60] Article X, s. 4(a), of the Florida Constitution provides "there shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by a natural person: (1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or the owner's family; (2) personal property to the value of one thousand dollars.

- A local government is prohibited from suspending an owner's vacation rental registration for violations of a local law, ordinance, or regulation which are not directly related to the vacation rental premises.
- A local government is required to provide notice of the suspension of a vacation rental registration to the operator and the Division within 5 days after the suspension.
    - The notice must include the start date of the suspension, which must be at least 21 days after the suspension notice is sent to the operator and the Division.

Effective January 1, 2026, a local government is required to use the vacation rental information system described in s. 509.244, F.S., created by the bill, to provide notice of the suspension of a vacation rental registration to the Division.

Registration Revocations

The bill allows a local government to revoke or refuse to renew a vacation rental registration if:
- The owner's registration has been suspended three times;
- There is an unsatisfied recorded municipal lien or county lien on the real property of the vacation rental, provided local governments give a vacation rental owner at least 60 days to satisfy a recorded municipal or county code lien before terminating a local registration because of the unsatisfied lien; or
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

The bill uses interchangeably the terms "revocation" and "termination."

The bill also requires local governments to provide notice of a termination or nonrenewal to the operator of a vacation rental within five days after the termination or nonrenewal. The notice must include the start date of the termination or refusal to renew, which must be at least 21 days after the notice is sent to the operator and the Division.

Effective January 1, 2026, a local government must use the vacation rental information system described in s. 509.244, F.S., which is created by the bill, to provide the notice of termination or nonrenewal of a vacation rental registration to the Division.

Appeals

The bill authorizes a vacation rental owner to appeal a denial, suspension, termination, or nonrenewal of a vacation rental registration to the circuit court, as follows:
- The appeal must be filed within 30 days after the issuance of the denial, suspension, or termination.
- The court may assess and award reasonable attorney fees and costs and damages to a vacation rental owner.[61]

Regulation of Vacation Rentals by the Division

Licensing

Effective January 1, 2025, the bill:
- Authorizes the Division, upon receiving an application for a vacation rental license, to grant a temporary license to permit the operation of the vacation rental while the license application is pending.
    - The temporary license automatically expires upon final agency action regarding the license application.

[61] S. 162.11, F.S., provides for the appeal of a final administrative order of a local government enforcement board to the circuit court. This provision does not provide for the awarding of attorney fees and costs to the prevailing party.

- Requires any license issued by the Division to be displayed conspicuously to the public inside the licensed establishment, instead of "in the office or lobby."
- Requires the owner or operator of a vacation rental offered for transient occupancy through an advertising platform to display the vacation rental local registration number, if applicable.
- Requires the licensee or licensed agent managing a vacation rental to submit to the Division, through the Division's online system, any applicable local vacation rental registration number within 5 days after registration.
- Requires the division to include a unique identifier on each vacation rental license it issues which identifies each individual vacation rental dwelling or unit.

Suspensions and Revocations of Vacation Rental Licenses

The bill amends authorizes the Division to revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a vacation rental license when:

- The operation of the subject premises violates the terms of an applicable lease or property restriction, including any property restriction adopted pursuant to chs. 718, 719, or 720, F.S., as determined by a final order of a court or an arbitrator's written decision;[62]
- The registration of the vacation rental is suspended or revoked by a local government as provided in s. 509.032(8), F.S.; or
- The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

When revoking, suspending, or refusing to renew a vacation rental license, the bill requires the Division to specify the license number with the associated unique identifier of the vacation rental dwelling or unit that has been suspended, revoked or not renewed. The Division must also input such status into the vacation rental information system described in s. 509.244, F.S.

The bill requires that any suspension of a vacation rental license based on the suspension of a local registration must run concurrently with the local registration suspension.

Requirements for Advertising Platforms

Effective January 1, 2025, the bill provides requirements for an advertising platform, including tax collection and remittance requirements. Under the bill, an advertising platform must:

- Require that a person who places an advertisement for the rental of a vacation rental to:
  - Include the vacation rental license number with the associated unique identifier and, if applicable, the local registration number; and
  - Attest to the best of the person's knowledge that the license number and the local registration number, if applicable, for the vacation rental property are current and valid and that all related information is accurately stated in the advertisement.
- Display the vacation rental license number with the associated unique identifier and, if applicable, the local registration number.
- Adopt an anti-discrimination plan and inform its users of the public lodging discrimination prohibition found in s. 509.092, F.S.

Effective January 1, 2026, the bill requires advertising platforms to:

- Use the vacation rental information system described in s. 509.244, F.S., to verify the vacation rental license number with the associated unique identifier and, if applicable, the local registration number.
- Remove from public view an advertisement or listing from its online application, software, website, or system within 15 business days after notification that a vacation rental license or, if applicable, a local registration:
  - Has been suspended, revoked, or not renewed; or

[62] Chapters 718, 719, or 720, F.S., relate to the regulation and governance of condominium, cooperative, and homeowners' associations, respectively.

- Fails to display a valid license number with the associated unique identifier and, if applicable, the local registration number.

The bill requires advertising platforms to collect and remit taxes due under ss. 125.0104,[63] 125.0108,[64] 205.044,[65] 212.03,[66] 212.0305,[67] and 212.055, F.S.,[68] resulting from the reservation of a vacation rental property and payment therefor through an advertising platform.

The bill also:

- Provides processes for the Division to issue a cease and desist order to any person who violates ch. 509, F.S.
- Authorizes the Division to seek an injunction or a writ of mandamus to enforce a cease and desist order.
- Provides that, if the Division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, F.S., it is entitled to collect its attorney fees and costs, together with any cost of collection.
- Authorizes the Division to fine an advertising platform an amount not to exceed $1,000 per offense for a violation of the provisions in the bill or rules of the Division.
- Provides that the advertising platform requirements in the bill do not create a private right of action against advertising platforms.

Vacation Rental Information System

The bill requires the Division to create and maintain, by July 1, 2025, a vacation rental information system readily accessible through an application program interface to allow:

- Licensees and advertising platforms to promptly comply with ch. 509, F.S., relating in pertinent part to public lodging establishments;
- Vacation rental advertisers to verify the vacation rental license number with the associated unique identifier, the applicable local registration number, and the license or registration status of the vacation rental;
- Local governments to notify the Division of a termination, failure to renew, or period of suspension of a local registration;
- Local governments to verify the license and local registration status of a vacation rental; and
- The registered user to subscribe to receive notification of changes to the license or registration of a vacation rental.

Community Associations

The bill provides that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium adopted pursuant to ch. 718, F.S., cooperative documents adopted pursuant to ch. 719, F.S., or declaration of covenants or declaration for a homeowners' association adopted pursuant to ch. 720, F.S.

Effective Date

Except as otherwise expressly provided in the bill, the effective date of the bill is July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.03, F.S., relating to transient rentals tax collection and remittance by advertising platforms.

[63] Section 125.0104, F.S., relates to the local option tourist development tax.
[64] Section 125.0108, F.S., relates to the tourist impact tax in areas within a county designated as an area of critical state concern.
[65] Section 205.044, F.S., relates to the merchant business tax measured by gross receipts.
[66] Section 212.03, F.S., relates to the transient rentals tax.
[67] Section 212.0305, F.S., relates to convention development taxes.
[68] Section 212.055, F.S., relates to discretionary sales taxes.

Section 2: Amends s. 509.013, F.S., defining the term "advertising platform."

Section 3: Amends s. 509.032, F.S., revising preemption authority, making conforming changes.

Section 4: Amends s. 509.241, F.S., revising display of vacation rental license requirements.

Section 5: Creates s. 509.243, F.S., governing advertising platforms.

Section 6: Creates s. 509.244, F.S., relating to vacation rental information system.

Section 7: Amends s. 509.261, F.S., relating to revocation or suspension of licenses, fines, procedure.

Section 8: Amends s. 159.27, F.S., conforming a cross reference.

Section 9: Amends s. 212.08, F.S., conforming a cross reference.

Section 10: Amends s. 316.1955, F.S., conforming a cross reference.

Section 11 Amends s. 404.056, F.S., conforming a cross reference.

Section 12: Amends s. 477.0135, F.S., conforming a cross reference.

Section 13: Amends s. 509.221, F.S., conforming a cross reference.

Section 14: Amends s. 553.5041, F.S., conforming a cross reference.

Section 15: Amends s. 559.955 conforming a cross reference.

Section 16: Amends s. 561.20, F.S., relating to limitation upon number of licenses issued.

Section 17: Amends s. 705.17, F.S., conforming a cross reference.

Section 18: Amends s. 705.185, F.S., conforming a cross reference.

Section 19: Amends s. 705.1355, F.S., conforming a cross reference.

Section 20: Amends s. 877.24, F.S., conforming a cross reference.

Section 21: Creates an unnumbered section providing for applicability.

Section 22: Creates an unnumbered section authorizing DOR emergency rulemaking authority.

Section 23: Provides for effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. According to DBPR, “there is an indeterminate increase in licensing revenue, but it is unknown how many rental advertisements currently exempt from licensing would require licensure. The bill may also result in an indeterminate increase in fines due to noncompliance.[69]

[69] Florida Department of Business & Professional Regulation, SB 280 Agency Analysis, p. 7 (Dec. 1, 2023).

The bill has not been given an estimate by the REC.

2. Expenditures:

According to DBPR, it will incur the following "increase in staff and costs needed to implement the bill:"[70]

- "Hotels and Restaurants – 4 FTE with a $ 196,279 salary rate and $380,815 budget authority ($53,645 nonrecurring).
- Office of the General Counsel – 2 FTE with a 150,154 salary rate and $244,421 of budget authority ($16,922 nonrecurring).
- Division of Service Operations – 1 FTE with a 46,984 salary rate and $88,158 of budget authority ($9,040 nonrecurring).
- Information Technology – 2 FTE with 120,000 of salary rate and $3,608,507 of budget authority ($3,269,922 nonrecurring)."

"TOTAL FISCAL IMPACT of $4,318,901 of budget authority ($972,371 recurring and $3,346,529 nonrecurring)."[71]

FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. According to DBPR, there is a potential increase in tourism taxes and revenue if local registration fees are required.[72]

Allowing local governments to administer and enforce a vacation rental registration program may create a positive fiscal impact resulting from collection of program fees and fines.

2. Expenditures:

Indeterminate. Allowing local governments to administer and enforce a vacation rental registration program will create costs to those local governments that choose to participate. However, these costs may be offset by the revenues generated from the collection of program fees and fines.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may provide a more predictable and uniform regulatory framework for vacation rentals in Florida.

C. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

[70] Florida Department of Business & Professional Regulation, SB 280 Agency Analysis, p. 7 (Dec. 1, 2023).
[71] *Id.*
[72] Florida Department of Business & Professional Regulation, SB 280 Agency Analysis, p. 6 (Dec. 1, 2023).

None.

B. RULE-MAKING AUTHORITY:

The bill provides emergency rulemaking authority for DOR to implement the bill's provisions.

The Division will need to update its rules based on the provision that authorizes the Division to fine an advertising platform. Current law appears to provide sufficient rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to vacation rentals; amending s. 212.03, F.S.; requiring advertising platforms to collect and remit specified taxes for certain vacation rental transactions; reordering and amending s. 509.013, F.S.; defining the term "advertising platform"; making technical changes; amending s. 509.032, F.S.; adding licensing to the regulated activities of public lodging establishments and public food service establishments which are preempted to the state; providing applicability; revising an exception to the prohibition against certain local regulation of vacation rentals; providing applicability; preempting the regulation of advertising platforms to the state; authorizing the adoption of local laws, ordinances, or regulations that require the registration of vacation rentals; authorizing local governments to adopt vacation rental registration programs and impose fines for failure to register; authorizing local governments to charge a specified fee for processing registration applications; authorizing local laws, ordinances, or regulations to require annual renewal of a registration and to charge a fee for such renewal; providing that a change in ownership may require a new application for registration; authorizing local

governments to charge a reasonable fee to inspect a vacation rental for a specified purpose; specifying requirements and procedures for, and limitations on, local vacation rental registration programs; authorizing local governments to fine vacation rental operators under certain circumstances; specifying procedures related to the imposition of fines; providing applicability relating to certain money judgment provisions; requiring local governments to issue a written notice of violation under certain circumstances; requiring the code enforcement board or special magistrate to make certain recommendations under specified circumstances; authorizing local governments to suspend an owner's vacation rental registration for specified periods of time; prohibiting local governments from suspending an owner's vacation rental registration for violations that are not directly related to the vacation rental premises; requiring local governments to provide notice of registration suspension, within a specified timeframe, to vacation rental operators and the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; providing requirements for such notice; requiring, by a certain date, that local governments use the vacation rental

information system to provide such notice to the division; providing that local governments may revoke or refuse to renew a vacation rental registration under certain circumstances; requiring local governments to provide notice of termination of or refusal to renew a vacation rental registration to vacation rental operators and the division within a specified timeframe; requiring, by a certain date, that local governments use the vacation rental information system to provide such notice to the division; providing that vacation rental owners may appeal a denial, suspension, or termination of, or a refusal to renew, the registration of a vacation rental; providing procedures for such appeal; providing construction; amending s. 509.241, F.S.; authorizing the division to issue temporary licenses upon receipt of vacation rental license applications while such applications are pending; providing for expiration of such licenses; requiring that any license issued by the division be conspicuously displayed to the public inside the licensed establishment; requiring that operators of vacation rentals which offer a vacation rental for transient occupancy through an advertising platform also display to the public inside the vacation rental its local

registration number, if applicable; requiring licensees or licensed agents managing a license classified as a vacation rental to submit local vacation rental registration numbers, if applicable, within a specified timeframe to the division through the division's online system; requiring the division to include a unique identifier on each vacation rental license issued which identifies each individual vacation rental dwelling or unit; creating s. 509.243, F.S.; requiring advertising platforms to require that persons placing advertisements or listings for vacation rentals include certain information in the advertisements or listings and attest to certain information; requiring advertising platforms to display certain information; requiring, as of a specified date, advertising platforms to verify certain information before publishing an advertisement or listing on their platforms and to remove from public view an advertisement or a listing under certain circumstances; requiring advertising platforms to collect and remit specified taxes for certain transactions; authorizing the division to issue and deliver a notice to cease and desist for certain violations; providing that such notice does not constitute agency action for which certain hearings

may be sought; authorizing the division to issue cease and desist notices in certain circumstances; providing that issuance of such notice does not constitute an agency action; authorizing the division to file certain proceedings for the purpose of enforcing a cease and desist notice; authorizing the division to collect attorney fees and costs under certain circumstances; authorizing the division to impose a fine on advertising platforms for certain violations; requiring the division to issue written notice of violations to advertising platforms before commencing certain legal proceedings; requiring advertising platforms to adopt an antidiscrimination policy and to inform their users of the policy's provisions; providing construction; creating s. 509.244, F.S.; defining the term "application program interface"; requiring the division, by a specified date, to create and maintain a certain vacation rental information system; specifying requirements for the system; amending s. 509.261, F.S.; authorizing the division to revoke, refuse to issue or renew, or suspend vacation rental licenses under certain circumstances; requiring the division to specify the license number of the vacation rental dwelling or unit which has been revoked, not renewed, or suspended; requiring the

department to input such status in the vacation rental information system; requiring the division's vacation rental license suspension to run concurrently with a local vacation rental registration suspension; amending ss. 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.221, 553.5041, 559.955, 561.20, 705.17, 705.185, 717.1355, and 877.24, F.S.; conforming cross-references; providing construction; authorizing the Department of Revenue to adopt emergency rules; providing requirements and an expiration date for the emergency rules; providing for the expiration of such rulemaking authority; providing effective dates.

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

Section 1. Effective January 1, 2025, subsection (2) of section 212.03, Florida Statutes, is amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, exemptions.—

(2)(a) The tax provided for in this section is ~~herein shall be~~ in addition to the total amount of the rental, must ~~shall~~ be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and is ~~shall be~~ due and payable at the time of the receipt of such rental payment by the lessor or person, as

defined in this chapter, who receives such ~~said~~ rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter ~~shall~~ apply to and are ~~be~~ binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(b) If a guest uses a payment system on or through an advertising platform as defined in s. 509.013 to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit taxes as provided in this paragraph.

1. An advertising platform that owns, operates, or manages a vacation rental or that is related within the meaning of s. 267(b), s. 707(b), or s. 1504 of the Internal Revenue Code of 1986, as amended, to a person who owns, operates, or manages the vacation rental shall collect and remit all taxes due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and

212.055 which are related to the rental.

2. An advertising platform to which subparagraph 1. does not apply shall collect and remit all taxes due from the owner, operator, or manager under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 which are related to the rental. Of the total amount paid by the lessee or rentee, the amount retained by the advertising platform for reservation or payment services is not taxable under this section or ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

In order to facilitate the remittance of such taxes, the department and counties that have elected to self-administer the taxes imposed under chapter 125 shall allow advertising platforms to register, collect, and remit such taxes.

Section 2. Section 509.013, Florida Statutes, is reordered and amended to read:

509.013 Definitions.—As used in this chapter, except as provided in subsection (14), the term:

(1) "Advertising platform" means a person as defined in s. 1.01(3) which:

(a) Provides an online application, software, a website, or a system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;

(b) Provides or maintains a marketplace for the renting of

a vacation rental for transient occupancy; and

(c) Provides a reservation or payment system that facilitates a transaction for the renting of a vacation rental for transient occupancy and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for the rental transaction.

(3) ~~(1)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(8) ~~(2)~~ "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

(4) ~~(3)~~ "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.

(10)(a) ~~(4)(a)~~ "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 2 ~~1~~. and a nontransient public lodging establishment as defined in subparagraph 1 ~~2~~.

2. ~~1.~~ "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less

than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

1.~~2.~~ "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

License classifications of public lodging establishments, and the definitions therefor, are as provided ~~set out~~ in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are not considered public lodging establishments ~~excluded from the definitions in paragraph (a)~~:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.

2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072.

3. Any place renting four rental units or less, unless the

rental units are advertised or held out to the public to be places that are regularly rented to transients.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.

6. Any establishment inspected by the Department of Health and regulated by chapter 513.

7. A facility operated by a nonprofit which provides ~~Any nonprofit organization that operates a facility providing~~ housing only to patients, patients' families, and patients' caregivers and not to the general public.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf which ~~that~~ is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to

attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

(9)(a) ~~(5)(a)~~ "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared before ~~prior to~~ being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(b) The following are not considered public food service establishments ~~excluded from the definition in paragraph (a)~~:

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily, to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily, to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization. Upon request by the division, the event host must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or watercraft that ~~which~~ is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous foods ~~food~~ and ~~which~~ is located in a facility regulated under s. 381.0072.

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(2) ~~(6)~~ "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(11) ~~(7)~~ "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or

plot of land that is not separated by a public street or highway.

(12) ~~(8)~~ "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(13) ~~(9)~~ "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(14) ~~(10)~~ "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

(16) ~~(11)~~ "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(17) ~~(12)~~ "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(15) ~~(13)~~ "Transient" means a guest in transient occupancy.

(6) ~~(14)~~ "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

(7) ~~(15)~~ "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

(5) ~~(16)~~ "Nontransient" means a guest in nontransient occupancy.

Section 3. Paragraph (c) of subsection (3) and subsection (7) of section 509.032, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

509.032 Duties.—

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each

vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. ~~Unless excluded under s. 509.013(5)(b),~~ A public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than $105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than $1,000, which ~~that~~ entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of

such a license at temporary food service events.

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, licensing, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

(b) A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph and subsection (8) do ~~does~~ not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including such a law, ordinance, or regulation that is amended to be less restrictive or to comply with the local registration requirements provided in subsection (8), or when a law, ordinance, or regulation adopted after June 1, 2011, regulates vacation rentals, if such law, ordinance, or regulation is less restrictive than a law, ordinance, or regulation that was in effect on June 1, 2011.

(c) Paragraph (b) and subsection (8) do ~~does~~ not apply to

any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

(d) The regulation of advertising platforms is preempted to the state.

(8) LOCAL REGISTRATION OF VACATION RENTALS; SUSPENSION; REVOCATIONS; FINES.—Notwithstanding paragraph (7)(a), a local law, ordinance, or regulation may require the registration of vacation rentals with a local vacation rental registration program. Local governments may implement a vacation rental registration program pursuant to this subsection and may impose a fine for failure to register under the local program.

(a) A local government may charge a fee of no more than $150 per unit for processing a registration application. A local law, ordinance, or regulation may require annual renewal of a registration and may charge a renewal fee of no more than $50 per unit for processing of a registration renewal. However, if there is a change of ownership, the new owner may be required to submit a new application for registration. Subsequent to the registration of a vacation rental, a local government may charge a reasonable fee to inspect a vacation rental after registration for compliance with the Florida Building Code and the Florida Fire Prevention Code, described in ss. 553.80 and 633.206,

respectively.

(b) As a condition of registration or renewal of a vacation rental, a local law, ordinance, or regulation establishing a local vacation rental registration program may require the operator of a vacation rental to do only the following:

1. Submit identifying information about the owner and the owner's operator, if applicable, and the subject vacation rental premises.

2. Provide proof of a license with the unique identifier issued by the division to operate as a vacation rental.

3. Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipality.

4. Update required information on a continuing basis to ensure it is current.

5. Designate and maintain at all times a responsible party who is capable of responding to complaints or emergencies related to the vacation rental, including being available by telephone at a provided contact telephone number 24 hours a day, 7 days a week, and receiving legal notice of violations on behalf of the operator. The responsible party has until 9 a.m. the next calendar day to respond to a complaint or emergency by telephone or otherwise.

6. State the maximum occupancy of the vacation rental

based on the number of sleeping accommodations for persons staying overnight in the vacation rental.

7. Pay in full all recorded municipal or county code liens against the subject vacation rental premises.

(c) Within 15 business days after receiving an application for registration of a vacation rental, a local government must review the application for completeness and accept the registration of the vacation rental or issue a written notice of denial.

1. The vacation rental operator and the local government may agree to a reasonable request to extend the timeframes provided in this paragraph, particularly in the event of a force majeure or other extraordinary circumstance.

2. If a local government fails to accept or deny the registration within the timeframes provided in this paragraph, the application is deemed accepted.

(d) If a local government denies a registration of a vacation rental, the local government must give written notice to the applicant. Such notice may be provided by United States mail or electronically. The notice must specify with particularity the factual reasons for the denial and include a citation to the applicable portions of the ordinance, rule, statute, or other legal authority for the denial of the registration. A local government may not prohibit an applicant from reapplying if the applicant cures the identified

deficiencies.

(e)1. Upon an accepted vacation rental registration, a local government shall assign a unique registration number to the vacation rental unit and provide the registration number or other indicia of registration to the vacation rental operator in writing or electronically.

2. The vacation rental operator must provide the vacation rental registration number to the division within 5 days after receipt of the registration number.

(f) A local government may fine a vacation rental operator up to $300 if he or she:

1. Fails to continue to meet the registration requirements in paragraph (b); or

2. Is operating a vacation rental without registering with the local government as a vacation rental.

(g) A certified copy of an order imposing a fine may be recorded in the public records and thereafter constitutes a lien against the real property on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order is enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order may not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this subsection shall continue to accrue until the

violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this subsection runs in favor of the local government, and the local government may execute a satisfaction or release of lien. Three months or more after the filing of any such lien that remains unpaid, the local government may foreclose on the lien against the real property on which the violation exists or sue to recover a money judgment for the amount of the lien, plus accrued interest. A lien created pursuant to this part may not be foreclosed on real property that is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section do not apply to real property or personal property that is covered under s. 4(a), Art. X of the State Constitution.

(h)1. If a vacation rental owner is found by the code enforcement board or special magistrate to have materially violated a local law, ordinance, or regulation that does not solely apply to vacation rentals and the violation is directly related to the owner's vacation rental premises, the local government must issue a written notice of such violation.

2. If the owner is found to have materially violated a local law, ordinance, or regulation as described in subparagraph 1., the code enforcement board or special magistrate must make a recommendation to the local government as to whether an owner's vacation rental registration should be suspended.

3. The code enforcement board or special magistrate must recommend the suspension of the owner's vacation rental registration if the owner is found to have:

a. One or more violations on 5 separate days during a 60-day period;

b. One or more violations on 5 separate days during a 30-day period; or

c. One or more violations after two prior suspensions of an owner's vacation rental registration.

4. If the code enforcement board or special magistrate recommends suspension of an owner's vacation rental registration, a local government may suspend such registration for a period of:

a. Up to 30 days for one or more violations on 5 separate days during a 60-day period;

b. Up to 60 days for one or more violations on 5 separate days during a 30-day period; or

c. Up to 90 days for one or more violations after two prior suspensions of an owner's vacation rental registration.

5. A local government may not suspend an owner's vacation rental registration for violations of a local law, ordinance, or regulation which are not directly related to the vacation rental premises.

6. A local government must provide notice of the suspension of a vacation rental registration to the operator and

the division within 5 days after the suspension. The notice must include the start date of the suspension, which must be at least 21 days after the suspension notice is sent to the operator and the division. Effective January 1, 2026, a local government must use the vacation rental information system described in s. 509.244 to provide notice of the suspension of a vacation rental registration to the division.

(i)1. A local government may revoke or refuse to renew a vacation rental registration if:

a. An owner's vacation rental registration has been suspended three times pursuant to paragraph (h);

b. There is an unsatisfied recorded municipal lien or county lien on the real property of the vacation rental. However, the local government must allow the vacation rental owner at least 60 days before the termination of a registration to satisfy the recorded municipal lien or county lien; or

c. The vacation rental premises and its owner are the subject of a final order or judgment by a court of competent jurisdiction lawfully directing the termination of the premises' use as a vacation rental.

2. A local government must provide notice of the termination of or refusal to renew a vacation rental registration to the operator and the division within 5 days after the termination or refusal to renew. The notice must include the date of termination or nonrenewal, which must be at

least 21 days after the notice is sent to the operator and the division. Effective January 1, 2026, a local government must use the vacation rental information system described in s. 509.244 to provide notice of the termination of or refusal to renew a vacation rental registration to the division.

(j) A vacation rental owner may appeal a denial, suspension, or termination of a vacation rental registration, or a refusal to renew such registration, to the circuit court. An appeal must be filed within 30 days after the issuance of the denial, suspension, or termination of, or refusal to renew, the vacation rental registration. The court may assess and award reasonable attorney fees and costs and damages to a vacation rental owner.

This subsection does not prohibit a local government from establishing a local law, ordinance, or regulation if it is uniformly applied without regard to whether the residential property is used as a vacation rental.

Section 4. Effective January 1, 2025, present paragraph (c) of subsection (4) of section 509.241, Florida Statutes, is redesignated as paragraph (d), a new paragraph (c) is added to that subsection, subsection (5) is added to that section, and subsections (2) and (3) of that section are amended, to read:

509.241 Licenses required; exceptions; division online accounts and transactions.—

(2) APPLICATION FOR LICENSE.—Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division before ~~prior to~~ the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license. Upon receiving an application for a vacation rental license, the division may grant a temporary license that authorizes the vacation rental to begin operation while the application is pending. The temporary license automatically expires upon final agency action regarding the license application.

(3) DISPLAY OF LICENSE.—A ~~Any~~ license issued by the division must ~~shall~~ be conspicuously displayed to the public inside ~~in~~ the ~~office or lobby of the~~ licensed establishment. Public food service establishments that ~~which~~ offer catering services must ~~shall~~ display their license number on all advertising for catering services. The operator of a vacation rental offered for transient occupancy through an advertising platform must also conspicuously display the vacation rental's local registration number, if applicable.

(4) ONLINE ACCOUNT AND TRANSACTIONS.—Each person who plans to open a public lodging establishment or a public food service establishment and each licensee or licensed agent must create

and maintain a division online account and provide an e-mail address to the division to function as the primary contact for all communication from the division.

(c) Each licensee or licensed agent managing a license classified as a vacation rental as defined in s. 509.242(1)(c) must submit to the division, through the division's online system, any applicable local vacation rental registration number within 5 days after registration.

(5) UNIQUE IDENTIFIER.—The division shall include a unique identifier on each vacation rental license it issues which identifies each individual vacation rental dwelling or unit.

Section 5. Effective January 1, 2025, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1) An advertising platform shall require that a person who places an advertisement or listing of a vacation rental which offers it for rent do all of the following:

(a) Include in the advertisement or listing the vacation rental license number with the associated unique identifier and, if applicable, the local registration number.

(b) Attest to the best of the person's knowledge that the vacation rental's license and, if applicable, its local registration are current and valid and that all related information is accurately stated in the advertisement.

(2) An advertising platform shall display the vacation

rental license number with the associated unique identifier, and, if applicable, the local registration number.

(3) Effective January 1, 2026, an advertising platform shall:

(a) Use the vacation rental information system described in s. 509.244 to verify that the vacation rental license number with the associated unique identifier, and, if applicable, the local registration number, are current, valid, and apply to the subject vacation rental before publishing an advertisement or listing on its platform.

(b) Remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after notification that a vacation rental license, or if applicable, a local registration:

1. Has been suspended, revoked, or not renewed; or

2. Fails to display a valid vacation rental license number with the associated unique identifier or, if applicable, a local registration number.

(4) If a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(5) If the division has probable cause to believe that a

person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(6) The division may fine an advertising platform an amount not to exceed $1,000 per offense for each violation of this section or of division rule. For the purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which an advertising platform is operated in violation of this section or rules of the division. The division shall issue to the advertising platform a written notice of any violation and provide it 15 days to cure the violation before commencing any legal proceeding under subsection (5).

(7) An advertising platform shall adopt an antidiscrimination policy to help prevent discrimination by its

users and shall inform all users that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin, as provided in s. 509.092.

(8) This section does not create a private cause of action against advertising platforms. An advertising platform may not be held liable for any action that it takes voluntarily and in good faith in relation to its users in compliance with this chapter or the advertising platform's terms of service.

Section 6. Section 509.244, Florida Statutes, is created to read:

509.244 Vacation rental information system.—

(1) As used in this section, the term "application program interface" means a predefined protocol for reading or writing data across a network using a file system or a database.

(2) By July 1, 2025, the division shall create and maintain a vacation rental information system readily accessible through an application program interface. At a minimum, the system must do all of the following:

(a) Facilitate prompt compliance with this chapter by a licensee or an advertising platform.

(b) Allow advertising platforms to search by vacation rental license number with the associated unique identifier, applicable local registration number, and a listing status field that indicates whether the premises is compliant with applicable

license and registration requirements to allow the operator to determine whether the platform may advertise the vacation rental.

(c) Allow local government users to notify the division of a termination or failure to renew, or the period of suspension of, a local registration, if applicable.

(d) Provide a system interface to allow local governments and advertising platforms to verify the status of a vacation rental license and a local registration of a vacation rental, if applicable.

(e) Allow a registered user to subscribe to receive automated notifications of changes to the license and registration status of a vacation rental, including any license revocation, local registration termination, period of suspension imposed by the division or local government, or failure to renew a license or local registration.

Section 7. Subsection (11) is added to section 509.261, Florida Statutes, to read:

509.261 Revocation or suspension of licenses; fines; procedure.—

(11)(a) The division may revoke, refuse to issue or renew, or suspend for a period of not more than 30 days a license of a vacation rental for any of the following reasons:

1. Operation of the subject premises violates the terms of an applicable lease or property restriction, including any

property restriction adopted pursuant to chapter 718, chapter 719, or chapter 720, as determined by a final order of a court of competent jurisdiction or a written decision by an arbitrator authorized to arbitrate a dispute relating to the subject premises and a lease or property restriction.

2. Local registration of the vacation rental is suspended or revoked by a local government as provided in s. 509.032(8).

3. The premises and its owner are the subject of a final order or judgment lawfully directing the termination of the premises' use as a vacation rental.

(b) The division must specify the license number with the associated unique identifier of the vacation rental dwelling or unit which has been revoked, not renewed, or suspended and input such status in the vacation rental information system described in s. 509.244.

(c) If the division suspends a license for the reason specified in subparagraph (a)2., the suspension must run concurrently with the local registration suspension.

Section 8. Subsection (12) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(12) "Public lodging or restaurant facility" means property used for any public lodging establishment as defined in

s. 509.242 or public food service establishment as defined in s. 509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or necessary to, another facility qualifying under this part.

Section 9. Paragraph (jj) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an

exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(jj) *Complimentary meals.*—Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient public lodging establishments ~~living accommodations~~ as described in s. 509.013(10)(a) ~~s. 509.013(4)(a)~~ which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

Section 10. Paragraph (b) of subsection (4) of section 316.1955, Florida Statutes, is amended to read:

316.1955 Enforcement of parking requirements for persons who have disabilities.—

(4)

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~

which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme park is open to the public for that day.

Section 11. Subsection (5) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and projects; certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules.—

(5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification shall be provided on at least one document, form, or application executed at the time of, or before ~~prior to~~, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification must ~~shall~~ contain the following language:

"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

The requirements of this subsection do not apply to any residential transient occupancy, as described in s. 509.013 ~~s. 509.013(12)~~, provided that such occupancy is 45 days or less in duration.

Section 12. Subsection (6) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(6) A license is not required of any individual providing makeup or special effects services in a theme park or entertainment complex to an actor, stunt person, musician, extra, or other talent, or providing makeup or special effects services to the general public. The term "theme park or entertainment complex" has the same meaning as in s. 509.013 ~~s. 509.013(9)~~.

Section 13. Paragraph (b) of subsection (2) of section 509.221, Florida Statutes, is amended to read:

509.221 Sanitary regulations.—

(2)

(b) Within a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not required to be in the same building as the public food service establishment, so long as they are reasonably accessible.

Section 14. Paragraph (b) of subsection (5) of section 553.5041, Florida Statutes, is amended to read:

553.5041 Parking spaces for persons who have disabilities.—

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located to conform to ss. 502 and 503 of the standards.

(b) If there are multiple entrances or multiple retail stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

Section 15. Paragraph (b) of subsection (5) of section 559.955, Florida Statutes, is amended to read:

559.955 Home-based businesses; local government restrictions.—

(5) The application of this section does not supersede:

(b) Local laws, ordinances, or regulations related to transient public lodging establishments~~,~~ as defined in s. 509.013(10)(a)2. which ~~s. 509.013(4)(a)1., that~~ are not otherwise preempted under chapter 509.

Section 16. Paragraph (d) of subsection (7) of section 561.20, Florida Statutes, is amended to read:

561.20 Limitation upon number of licenses issued.—

(7)

(d) Any corporation, partnership, or individual operating a club which owns or leases and which maintains any bona fide beach or cabana club consisting of beach facilities, swimming pool, locker rooms or bathroom facilities for at least 100 persons, and a public food service establishment as defined in s. 509.013 ~~s. 509.013(5)(a)~~, comprising in all an area of at least 5,000 square feet located on a contiguous tract of land of in excess of 1 acre may be issued a license under s. 565.02(4). The failure of such club to maintain the facilities shall be a ground for revocation of the license.

Section 17. Subsection (2) of section 705.17, Florida Statutes, is amended to read:

705.17 Exceptions.—

(2) Sections 705.1015-705.106 do not apply to any personal property lost or abandoned on premises located within a theme park or entertainment complex, as defined in s. 509.013 ~~s. 509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with s. 705.185.

Section 18. Section 705.185, Florida Statutes, is amended to read:

705.185 Disposal of personal property lost or abandoned on the premises of certain facilities.—When any lost or abandoned personal property is found on premises located within a theme park or entertainment complex, as defined in s. 509.013 ~~s. 509.013(9)~~, or operated as a zoo, a museum, or an aquarium, or on the premises of a public food service establishment or a public lodging establishment licensed under part I of chapter 509, if the owner or operator of such premises elects to comply with this section, any lost or abandoned property must be delivered to such owner or operator, who must take charge of the property and make a record of the date such property was found. If the property is not claimed by its owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the owner or operator of the premises, the owner or operator of the premises may not sell and must dispose of the property or donate it to a charitable institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code for sale or other disposal as the charitable institution deems appropriate. The rightful owner of the property may reclaim the property from the owner or operator of the premises at any time before the disposal or donation of the property in accordance with this section and the established policies and procedures of the owner or operator of the

premises. A charitable institution that accepts an electronic device, as defined in s. 815.03(9), access to which is not secured by a password or other personal identification technology, shall make a reasonable effort to delete all personal data from the electronic device before its sale or disposal.

Section 19. Section 717.1355, Florida Statutes, is amended to read:

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

Section 20. Subsection (8) of section 877.24, Florida Statutes, is amended to read:

877.24 Nonapplication of s. 877.22.—Section 877.22 does not apply to a minor who is:

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~.

Section 21. The application of this act does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes; any cooperative document adopted pursuant to chapter 719, Florida

Statutes; or any declaration or declaration of covenant adopted pursuant to chapter 720, Florida Statutes.

Section 22. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 212.03, Florida Statutes, including establishing procedures to facilitate the remittance of taxes.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2026.

Section 23. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2024.

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 1537 by Rep. Griffitts
Vacation Rentals

AMENDMENT SUMMARY
February 1, 2024

Amendment 1 by Rep. Griffitts (lines 441-791):

- Requires local registration programs to be administered by the **tax collector**.
- Limits local government's authority to charge a reasonable fee for building and fire code inspections to $150, and specifies the inspectors must be authorized under the State Fire Marshall standards.
- Specifies that when a vacation rental registration is accepted, the local government is required to immediately assign a unique registration number.
- Removes the 5 day timeframe that a vacation rental operator is required to provide the vacation rental registration number to the Division.
- Limits any lien for a registration violation to apply only to that specific property; removing the ability to lien all other property owned by that same owner.
- Requires any violations that are subject to discipline to be "material" violations; requires the code enforcement board or special magistrate to make such determination; and only allows revocation if found to have habitual material violations.
- Decreases the related 30, 60, and 90 day suspension timeframes **to 15, 30, and 60 days** for material violation during a 60 day, 30 day and 6 month periods; the 60 day suspension only applies if violations occur within 6-months of the two prior suspensions.
- Specifies that registration revocations apply only to specific vacation rental where violation occurred.
- Requires immediate and automatic registration reinstatement or renewal upon satisfaction of the lien.
- Allows registration 6 months after revocation of a registration.
- Removes the requirement for advertising platforms:
    - to display the vacation rental local registration number.
    - verify license numbers through the department.
    - to use the vacation rental information system to verify the vacation rental license number.
- Requires the advertising platform to:
    - remove the ability to book an advertisement or listing within 15 days of notification through the information system of a revocation or suspension.
    - provide to the Division on a quarterly basis, in a manner compatible with the vacation rental information system, a list of all vacation rentals in the state which are advertised on its platform, along with the uniform resource locator for the Internet address of the vacation rental advertisement and the vacation rental license number associated with the vacation rental.
- Removes the requirement that the Division's vacation rental information system:
    - Provide a system interface to allow advertising platforms to verify license and registration information.
    - However, the system will be searchable by any person or entity or local government.

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 Griffitts offered the following:

Amendment (with title amendment)

Remove lines 441-791 and insert:

of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including such a law, ordinance, or regulation that is amended to be less restrictive or to comply with the local registration requirements provided in subsection (8), or when a law, ordinance, or regulation adopted after June 1, 2011, regulates vacation rentals, if such law, ordinance, or regulation is less restrictive than a law, ordinance, or regulation that was in effect on June 1, 2011.

(c) Paragraph (b) and subsection (8) do ~~does~~ not apply to

any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

(d) The regulation of advertising platforms is preempted to the state.

(8) LOCAL REGISTRATION OF VACATION RENTALS; SUSPENSION; REVOCATIONS; FINES.—Notwithstanding paragraph (7)(a), a local law, ordinance, or regulation may require the registration of vacation rentals with a local vacation rental registration program. Local governments may implement a vacation rental registration program pursuant to this subsection and may impose a fine for failure to register under the local program. Any such registration program implemented by a local government shall be administered by the tax collector.

(a) A local government may charge a fee of no more than $150 per unit for processing a registration application. A local law, ordinance, or regulation may require annual renewal of a registration and may charge a renewal fee of no more than $50 per unit for processing of a registration renewal. However, if there is a change of ownership, the new owner may be required to submit a new application for registration. Subsequent to the registration of a vacation rental, a local government may charge a fee, not to exceed $150, for a person authorized by s. 633.118

to inspect the vacation rental and enforce the laws and rules of the State Fire Marshall for issues pertaining to the uniform firesafety standards.

(b) As a condition of registration or renewal of a vacation rental, a local law, ordinance, or regulation establishing a local vacation rental registration program may require the operator of a vacation rental to do only the following:

1. Submit identifying information about the owner and the owner's operator, if applicable, and the subject vacation rental premises.

2. Provide proof of a license with the unique identifier issued by the division to operate as a vacation rental.

3. Obtain all required tax registrations, receipts, or certificates issued by the Department of Revenue, a county, or a municipality.

4. Update required information on a continuing basis to ensure it is current.

5. Designate and maintain at all times a responsible party who is capable of responding to complaints or emergencies related to the vacation rental, including being available by telephone at a provided contact telephone number 24 hours a day, 7 days a week, and receiving legal notice of violations on behalf of the operator. The responsible party has until 9 a.m. the next calendar day to respond to a complaint or emergency by

telephone or otherwise.

6. State the maximum occupancy of the vacation rental based on the number of sleeping accommodations for persons staying overnight in the vacation rental.

7. Pay in full all recorded municipal or county code liens against the subject vacation rental premises.

(c) Within 15 business days after receiving an application for registration of a vacation rental, a local government must review the application for completeness and accept the registration of the vacation rental or issue a written notice of denial.

1. The vacation rental operator and the local government may agree to a reasonable request to extend the timeframes provided in this paragraph, particularly in the event of a force majeure or other extraordinary circumstance.

2. If a local government fails to accept or deny the registration within the timeframes provided in this paragraph, the application is deemed accepted.

(d) If a local government denies a registration of a vacation rental, the local government must give written notice to the applicant. Such notice may be provided by United States mail or electronically. The notice must specify with particularity the factual reasons for the denial and include a citation to the applicable portions of the ordinance, rule, statute, or other legal authority for the denial of the

registration. A local government may not prohibit an applicant from reapplying if the applicant cures the identified deficiencies.

(e)1. Upon an accepted vacation rental registration, a local government shall immediately assign a unique registration number to the vacation rental unit and provide the registration number or other indicia of registration to the vacation rental operator in writing or electronically.

2. The vacation rental operator must provide the vacation rental registration number to the division.

(f) A local government may fine a vacation rental operator up to $300 if he or she:

1. Fails to continue to meet the registration requirements in paragraph (b); or

2. Is operating a vacation rental without registering with the local government as a vacation rental.

(g) A certified copy of an order imposing a fine may be recorded in the public records and thereafter constitutes a lien against the real property on which the violation exists. Upon petition to the circuit court, such order is enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order may not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this subsection shall continue to accrue until the

violator comes into compliance or until judgment is rendered in a suit filed pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this subsection runs in favor of the local government, and the local government may execute a satisfaction or release of lien. Three months or more after the filing of any such lien that remains unpaid, the local government may foreclose on the lien against the real property on which the violation exists or sue to recover a money judgment for the amount of the lien, plus accrued interest. A lien created pursuant to this part may not be foreclosed on real property that is a homestead under s. 4, Art. X of the State Constitution. The money judgment provisions of this section do not apply to real property or personal property that is covered under s. 4(a), Art. X of the State Constitution.

(h)1. If a vacation rental owner is found by the code enforcement board or special magistrate to have materially violated a local law, ordinance, or regulation that does not solely apply to vacation rentals and the violation is directly related to the owner's vacation rental premises, the local government must issue a written notice of such violation.

2. If the owner is found to have materially violated a local law, ordinance, or regulation as described in subparagraph 1., the code enforcement board or special magistrate must make a recommendation to the local government as to whether an owner's vacation rental registration should be suspended.

3. The code enforcement board or special magistrate must recommend the suspension of the owner's vacation rental registration if the owner is found to have:

a. One or more material violations on 5 separate days during a 60-day period;

b. One or more material violations on 5 separate days during a 30-day period; or

c. One or more material violations after two prior suspensions of an owner's vacation rental registration during a 6-month period.

4. If the code enforcement board or special magistrate recommends suspension of an owner's vacation rental registration, a local government may suspend such registration for a period of:

a. Up to 15 days for one or more material violations on 5 separate days during a 60-day period;

b. Up to 30 days for one or more material violations on 5 separate days during a 30-day period; or

c. Up to 60 days for one or more material violations after two prior suspensions of an owner's vacation rental registration during a 6-month period.

5. A local government may not suspend an owner's vacation rental registration for violations of a local law, ordinance, or regulation which are not directly related to the vacation rental premises.

6. A local government must provide notice of the suspension of a vacation rental registration to the operator and the division within 5 days after the suspension. The notice must include the start date of the suspension, which must be at least 21 days after the suspension notice is sent to the operator and the division. Effective January 1, 2026, a local government must use the vacation rental information system described in s. 509.244 to provide notice of the suspension of a vacation rental registration to the division.

(i)1. A local government may revoke or refuse to renew a vacation rental registration of a specific vacation rental if:

a. The code enforcement board or special magistrate has found that the vacation rental owner has habitually committed material violations pursuant to paragraph (h) and has imposed the strictest penalty thereunder;

b. There is an unsatisfied recorded municipal lien or county lien on the real property of the vacation rental; however, the local government must allow the vacation rental owner at least 60 days before the termination of a registration to satisfy the recorded municipal lien or county lien and must immediately and automatically reinstate or renew the registration upon satisfaction of such lien; or

c. The vacation rental premises and its owner are the subject of a final order or judgment by a court of competent jurisdiction lawfully directing the termination of the premises'

use as a vacation rental.

2. A local government must provide notice of the termination of or refusal to renew a vacation rental registration to the operator and the division within 5 days after the termination or refusal to renew. The notice must include the date of termination or nonrenewal, which must be at least 21 days after the notice is sent to the operator and the division. Effective January 1, 2026, a local government must use the vacation rental information system as established in s. 509.244 to provide notice of the termination of or refusal to renew a vacation rental registration to the division.

(j) A vacation rental owner may appeal a denial, suspension, or termination of a vacation rental registration, or a refusal to renew such registration, to the circuit court. An appeal must be filed within 30 days after the issuance of the denial, suspension, or termination of, or refusal to renew, the vacation rental registration. The court may assess and award reasonable attorney fees and costs and damages to a vacation rental owner.

(k) A vacation rental owner may apply for registration upon the sale of the vacation rental premises to a new owner or 6 months after revocation of or refusal to renew the vacation rental registration pursuant to paragraph (i).

This subsection does not prohibit a local government from

establishing a local law, ordinance, or regulation if it is uniformly applied without regard to whether the residential property is used as a vacation rental.

Section 4. Effective January 1, 2025, present paragraph (c) of subsection (4) of section 509.241, Florida Statutes, is redesignated as paragraph (d), a new paragraph (c) is added to that subsection, subsection (5) is added to that section, and subsections (2) and (3) of that section are amended, to read:

509.241 Licenses required; exceptions; division online accounts and transactions.—

(2) APPLICATION FOR LICENSE.—Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division before ~~prior to~~ the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license. Upon receiving an application for a vacation rental license, the division may grant a temporary license that authorizes the vacation rental to begin operation while the application is pending. The temporary license automatically expires upon final agency action regarding the license application.

(3) DISPLAY OF LICENSE.—A ~~Any~~ license issued by the division must ~~shall~~ be conspicuously displayed to the public

inside ~~in~~ the ~~office or lobby of the~~ licensed establishment. Public food service establishments that ~~which~~ offer catering services must ~~shall~~ display their license number on all advertising for catering services. The operator of a vacation rental offered for transient occupancy through an advertising platform must also conspicuously display the vacation rental's local registration number, if applicable.

(4) ONLINE ACCOUNT AND TRANSACTIONS.—Each person who plans to open a public lodging establishment or a public food service establishment and each licensee or licensed agent must create and maintain a division online account and provide an e-mail address to the division to function as the primary contact for all communication from the division.

(c) Each licensee or licensed agent managing a license classified as a vacation rental as defined in s. 509.242(1)(c) must submit to the division, through the division's online system, any applicable local vacation rental registration number.

(5) UNIQUE IDENTIFIER.—The division shall include a unique identifier on each vacation rental license it issues which identifies each individual vacation rental dwelling or unit.

Section 5. Effective January 1, 2025, section 509.243, Florida Statutes, is created to read:

509.243 Advertising platforms.—

(1) An advertising platform shall require that a person

who places an advertisement or listing for a vacation rental which offers it for rent do all of the following:

(a) Include in the advertisement or listing the vacation rental license number with the associated unique identifier and, if applicable, the local registration number.

(b) Attest to the best of the person's knowledge that the vacation rental's license and, if applicable, its local registration are current and valid and that all related information is accurately stated in the advertisement.

(2) An advertising platform shall display the vacation rental license number with the associated unique identifier.

(3) Effective January 1, 2026, an advertising platform shall:

(a) Remove the ability to book an advertisement or a listing from its online application, software, website, or system within 15 business days after notification through the vacation rental information system as established in s. 509.244 that a vacation rental license, or, if applicable, a local registration:

1. Has been suspended, revoked, or not renewed; or

2. Fails to display a valid vacation rental license number with the associated unique identifier or, if applicable, a local registration number.

(b) Provide to the division on a quarterly basis, in a manner compatible with the vacation rental information system as

established in s. 509.244, a list of all vacation rentals in the state which are advertised on its platform, along with the uniform resource locator for the Internet address of the vacation rental advertisement and the vacation rental license number associated with the vacation rental.

(4) If a guest uses a payment system on or through an advertising platform to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit all taxes due under ss. 125.0104, 125.0108, 205.044, 212.03, 212.0305, and 212.055 related to the rental as provided in s. 212.03(2)(b).

(5) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the division is required to seek enforcement of the notice for a penalty pursuant to s. 120.69, it is entitled to collect attorney fees and costs, together with any cost of collection.

(6) The division may fine an advertising platform an amount not to exceed $1,000 per offense for each violation of this section or of division rule. For the purposes of this subsection, the division may regard as a separate offense each day or portion of a day in which an advertising platform is operated in violation of this section or rules of the division. The division shall issue to the advertising platform a written notice of any violation and provide it 15 days to cure the violation before commencing any legal proceeding under subsection (5).

(7) An advertising platform shall adopt an antidiscrimination policy to help prevent discrimination by its users and shall inform all users that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin, as provided in s. 509.092.

(8) This section does not create a private cause of action against advertising platforms. An advertising platform may not be held liable for any action that it takes voluntarily and in good faith in relation to its users in compliance with this chapter or the advertising platform's terms of service.

Section 6. Section 509.244, Florida Statutes, is created to read:

509.244 Vacation rental information system.—

(1) As used in this section, the term "application program

interface" means a predefined protocol for reading or writing data across a network using a file system or a database.

(2) By July 1, 2025, the division shall create and maintain a vacation rental information system readily accessible through an application program interface. At a minimum, the system must do all of the following:

(a) Facilitate prompt compliance with this chapter by a licensee or an advertising platform.

(b) Allow local government users to notify the division of a termination or failure to renew, or the period of suspension of, a local registration, if applicable.

(c) Provide a system interface to allow local governments to verify the status of a vacation rental, if applicable.

(d) Allow a registered user to subscribe to receive automated notifications of changes to the license and registration status of a vacation rental, including any license revocation, local registration termination, period of suspension imposed by the division or local government, or failure to renew a license or local registration.

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

Remove lines 19-95 and insert:

for failure to register; requiring such registration programs to be administered by the local tax

collector; authorizing local governments to charge a specified fee for processing registration applications; authorizing local laws, ordinances, or regulations to require annual renewal of a registration and to charge a fee for such renewal; providing that a change in ownership may require a new application for registration; authorizing local governments to charge a specified fee to inspect a vacation rental and enforce certain laws and rules for issues pertaining to life safety requirements; specifying requirements and procedures for, and limitations on, local vacation rental registration programs; authorizing local governments to fine vacation rental operators under certain circumstances; specifying procedures related to the imposition of fines; providing applicability relating to certain money judgment provisions; requiring local governments to issue a written notice of violation under certain circumstances; requiring the code enforcement board or special magistrate to make certain recommendations under specified circumstances; authorizing local governments to suspend an owner's vacation rental registration for specified periods of time; prohibiting local governments from suspending an owner's vacation rental registration for violations

not directly related to the vacation rental premises; requiring local governments to provide notice of registration suspension, within a specified timeframe, to vacation rental operators and the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; providing requirements for such notice; requiring, by a certain date, local governments to use the vacation rental information system to provide such notice to the division; authorizing local governments to revoke or refuse to renew a vacation rental registration of a specific vacation rental under certain circumstances; requiring local governments to provide notice of termination of or refusal to renew a vacation rental registration to vacation rental operators and the division within a specified timeframe; requiring, by a certain date, local governments to use the vacation rental information system to provide such notice to the division; providing that vacation rental owners may appeal a denial, suspension, or termination of, or a refusal to renew, the registration of a vacation rental; providing procedures for such appeal; authorizing a vacation rental owner to apply for registration upon the sale of the vacation rental premises or 6 months after revocation of or refusal to

renew the vacation rental registration; providing construction; amending s. 509.241, F.S.; authorizing the division to issue temporary licenses upon receipt of vacation rental license applications while such applications are pending; providing for expiration of such licenses; requiring that any license issued by the division be conspicuously displayed to the public inside the licensed establishment; requiring that operators of vacation rentals which offer a vacation rental for transient occupancy through an advertising platform also display to the public inside the vacation rental its local registration number, if applicable; requiring licensees or licensed agents managing a license classified as a vacation rental to submit local vacation rental registration numbers, if applicable, to the division through the division's online system; requiring the division to include a unique identifier on each vacation rental license issued which identifies each individual vacation rental dwelling or unit; creating s. 509.243, F.S.; requiring advertising platforms to require that persons placing advertisements or listings for vacation rentals include certain information in the advertisements or listings and attest to certain information; requiring advertising platforms to

display certain information; requiring, as of a specified date, advertising platforms to remove the ability to book an advertisement or a listing under certain circumstances and to provide to the division on a quarterly basis, in a specified manner, a list of all vacation rentals in the state which are advertised on its platforms, along with other specified information; requiring advertising platforms

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1559 Professional Licensure
SPONSOR(S): McClure
TIED BILLS: **IDEN./SIM. BILLS:** SB 1786

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

SUMMARY ANALYSIS

Chapter 472, F.S., governs the practice of land surveying and mapping in Florida. Through the Florida Board of Professional Surveyors and Mappers (Board), the Department of Agriculture and Consumer Services (DACS) licenses and regulates professional surveyors and mappers in the state. Current law provides education and experience prerequisites that must be met in order to be eligible to take the licensure examination to practice as a surveyor and mapper.

Currently, applicants must **at least** have a **bachelor's degree** in a related course of study and a minimum of **four years of experience** working under a professional surveyor in order to take the licensure examination.

Applicants with a bachelor's degree in an unrelated course of study must have **six years of experience**, and complete a minimum of **25 semester hours** from a college or university approved by the board in surveying and mapping related subjects **in order to take the licensure examination**.

The bill provides **additional pathways** to qualify to take the **licensure examination** as follows:

- Allows applicants with a **high school diploma** or an **associate's degree,** who complete **25 hours of coursework in surveying and mapping,** and **six** years of experience under a professional surveyor and mapper, **five** years of which must be in responsible charge of the work performed, to be eligible to take the licensure examination.
- Allows applicants who qualified to obtain a surveying and mapping license in another state that hold a **license to practice in another state** and have **two years of experience in the active practice** of surveying and mapping to be eligible to take the **licensure examination**.
- Allows applicants with a **registered apprenticeship certificate** in surveying and mapping and an **experience record of two** or more years in the active practice of mapping to be eligible to take the licensure examination.

The bill may have a positive fiscal impact on state government and the private sector, and no fiscal impact on local government.

The effective date of the bill is July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Land Surveying and Mapping

Chapter 472, F.S., governs the practice of land surveying and mapping in Florida. Through the Florida Board of Professional Surveyors and Mappers (Board), the Department of Agriculture and Consumer Services (DACS) licenses and regulates professional surveyors and mappers in the state.[1]

These regulations include, but are not limited to:[2]

- Examination;
- Licensure, including certificates of authorization;
- Continuing education;
- Seals;
- Standards of practice;
- Prohibitions and penalties;
- Disciplinary guidelines;
- Investigative procedures;
- Power to administer oaths, take depositions, and issue subpoenas;
- Unlicensed activities; and
- Elevation certificates.

According to DACS, licensed surveyors and mappers make exact measurements and determine property boundaries. They provide data relevant to the shape, contour, gravitation, location, elevation or dimension of land or land features on or near the earth's surface for engineering, mapmaking, mining, land evaluation, construction and other purposes.[3]

The Board has authority to adopt rules to implement ch. 472, F.S., subject to approval by DACS.[4] Effective October 1, 2009, the regulation of professional surveyors and mappers by the Board was transferred from the Department of Business and Professional Regulation (DBPR) to DACS.[5]

According to DACS, in 2022, there were 2,579 surveyors and mappers licensed in Florida.[6]

Licensing Examinations

Current law provides education and experience prerequisites that must be met in order to be eligible to take the licensure examination to practice as a surveyor and mapper or as a surveyor and mapper intern.[7] All applicants must be approved by the Board prior to taking any examination.[8]

All pathways to licensure as a professional surveyor and mapper in Florida require **at least a four-year college degree.** The prerequisites to take the licensure examination to practice as a surveyor and

[1] S. 472.007, F.S.
[2] *See* ch. 472, F.S.
[3] Florida Department of Agriculture and Consumer Services, Consumer Services, *Surveyors and Mappers*, https://www.fdacs.gov/Business-Services/Surveyors-and-Mappers (last visited Jan. 27, 2024).
[4] S. 472.008, F.S.
[5] Ch. 2009-66, Laws of Fla.
[6] Email from Carlos Nathan, Legislative Affairs Director, Department of Agriculture and Consumer Services, Re: Surveyors Data, (Jan. 6, 2022).
[7] S. 472.013, F.S.
[8] R. 5J-17.030, F.A.C.

mapper are as follows:[9]

- A bachelor's degree in surveying and mapping or in a similarly titled program:
  - Four or more years of work experience under a professional surveyor;
  - All four years of work experience must have been in responsible charge of the accuracy and correctness of the surveying work performed; or
- A bachelor's degree in a course of study **other than surveying and mapping**:
  - Six or more years of work experience under a professional surveyor;
  - Five of the six years of experience must have been in responsible charge of the accuracy and correctness of the surveying work performed.
  - These applicants must also complete a minimum of **25 semester hours** from a college or university approved by the board in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences.

The following is a chart outlining these education and work experience prerequisites:

Type of Applicant	Type of Degree	Work Experience
Surveyor and Mapper *(Option 1)*	Surveying and Mapping **Bachelor's Degree**	**4** or more years subordinate to surveyor and mapper and in "responsible charge" of work performed
Surveyor and Mapper *(Option 2)*	Non-Surveying and Mapping **Bachelor's Degree**; ***and*** **25 semester hours surveying and mapping subjects**	**6** or more years subordinate to surveyor and mapper of which 5 years must be in "responsible charge" of work performed

The board, by rule,[10] is authorized to establish fees for examination. The initial application and examination fee must not exceed $125 plus the actual per applicant cost to DACS to purchase the examination from the National Council of Engineering Examiners or a similar national organization. The examination fee must be sufficient to cover the cost of obtaining and administering the examination and is refundable if the applicant is found ineligible to sit for the examination. The application fee is nonrefundable.[11]

Exiled Foreign-Trained Professionals

Exiled foreign-trained professionals that wish to become surveyors and mappers must have graduated with an appropriate college degree from a college or university and must have lawfully practiced the profession for at least three years.[12] Specifically, an exiled professional is eligible for examination if the exiled professional satisfies all of the following seven requirements:[13]

- Immigrated to the United States after leaving the person's home country because of political reasons, provided the country is located in the Western Hemisphere and does not have diplomatic relations with the United States;
- Applied to DACS and submits a fee;
- Was a resident of this state immediately preceding the person's application;

[9] *See* s. 472.013, F.S.
[10] R. 5J-17.070, F.S.
[11] S. 472.011, F.S.
[12] *See* s. 472.0101, F.S.
[13] S. 472.0101(1)(a)-(g), F.S.

- Demonstrated to DACS, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant graduated with an appropriate professional or occupational degree from a college or university.
    - However, DACS may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;
- Lawfully practiced the profession for at least 3 years;
- Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida; and
- Presented a certificate demonstrating the successful completion of a continuing education program, which offers a course of study that will prepare the applicant for the examination.

DACS is required to develop rules for the approval of such programs for the Board.[14]

Upon request of a person who meets the requirements and submits an examination fee, DACS, for the Board, is required to conduct a written practical examination that tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. The fees charged for the examinations are established by DACS, for the board, by rule,[15] and must be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.[16]

Recent Trends

The average age of a land surveyor in the U.S. is in the upper 50s. According to the Bureau of Labor Statistics, in 2023 there were 43,000 working surveyors in the U.S., 8,000 were 34 years of age or younger, and 16,000 were age 55 and over.[17] Many in the profession will be retiring and need to be replaced.[18]

In addition, reports indicate that the most common degree for land surveyors is a bachelor's degree, with 43 percent of land surveyors earning that degree. The second and third most common degree level is an associate degree at 24 percent and high school diploma at 21 percent.[19]

Certain education and licensing qualifications for surveyors have created recruitment barriers.[20] Some in the industry have indicated that a shortage may exist in the profession because of extensive education expectations and cost. Many state boards require a four-year degree before beginning work in the surveying field. These requirements might hinder those from pursuing a surveying path. Nationally there appears to be a decline in the number of students graduating from surveying programs.[21]

In Florida, as of 2022, the number of licensed surveyors had decreased by 305 licensees, from 2,884 licensees in 2013 to 2,579 licensees in 2021.[22]

Other States

[14] S. 472.001(1), F.S.
[15] R. 5J-17.210, F.A.C.
[16] S. 472.0101(2), F.S.
[17] U.S. Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, https://www.bls.gov/cps/cpsaat11b.pdf (last visited Jan. 27, 2024).
[18] U.S. Bureau of Labor Statistics, *Occupational Outlook Handbook*, https://www.bls.gov/ooh/architecture-and-engineering/surveyors.htm#tab-6 (last visited Jan. 27, 2024).
[19] Zippia, The Career Expert, *LAND SURVEYOR DEMOGRAPHICS AND STATISTICS IN THE US*, https://www.zippia.com/land-surveyor-jobs/demographics/ (last visited Jan. 27, 2024).
[20] The American Surveyor, *Reaching Out, Using Technology and Outreach to Encourage Students to Join the Profession*, https://amerisurv.com/2023/06/10/reaching-out/ (last visited Jan. 27, 2024).
[21] Nearterm Blog, *Is There a Shortage of Land Surveyors?* (Nov. 2, 2020), https://nearterm.com/is-there-a-shortage-of-land-surveyors/ (last visited Jan. 27, 2024).
[22] Email from Carlos Nathan, Legislative Affairs Director, Department of Agriculture and Consumer Services, Re: Surveyors Data, (Jan. 6, 2022).

Each state and territory in the U.S. require those who perform the tasks defined as the practice of surveying to hold a professional surveying license. Most states require professional surveyors to meet a combination of requirements in education and exams.[23]

Generally, while each state board for surveyors has its own requirements for licensure, potential licensees will follow a similar path of prerequisites to obtain a license in any state. Prerequisites typically include:[24]

- An education requirement - Sometimes a high school diploma but some states also require a four-year degree from an accredited surveying program.
- Successful completion of a Fundamentals of Surveying (FS) written examination - testing an applicant's breadth of understanding of basic surveying principles.
- Successful completion of a written Principles and Practice of Surveying (PS) examination - testing an applicant's knowledge and competency of surveying skills.
- A requisite amount of surveying experience - which for most states is four years and is usually under the supervision of a professional surveyor.

According to research, the education and experience requirements in all 50 states appear to indicate the following patterns:[25]

- Most states require at least a four-year degree and four years of professional experience.
- Typically, the extent of the degree is relative to the amount of professional experience required.
- Fourteen states provide an option that requires only a high school diploma (or do not have any educational requirements) along with a certain amount of professional experience.
- Six states provide an option that does not require the completion of a degree, but requires the completion of a certain amount of survey and mapping coursework and professional experience.
- The degrees that are required are typically in a surveying and mapping curriculum, a curriculum related to surveying and mapping, or an unrelated curriculum but with a certain amount of coursework in a surveying related curriculum.
- States that allow postgraduate coursework in a surveying curriculum allow the coursework to be substituted for professional experience.
- Twenty-eight states do not provide an education-less alternative method of licensure.

One example of a state that allows a number of different pathways to licensure is North Carolina:[26]

- **Bachelor's Degree**: Graduates with a Bachelor's degree in surveying can take the licensing exam after **two years** of supervised experience.
- **Associate's Degree**: Graduates with a two-year Associate's degree in surveying can take the licensing exam with **five years** of supervised experience.
- **High School Diploma and Apprenticeship:** Graduates with a high school diploma and an apprenticeship can take the licensing exam with **seven years** of supervised experience.
- **High School Diploma**: Graduates with a high school diploma or equivalent can take the licensing exam with **nine years** of supervised experience.

Effect of the Bill

The bill changes language in the licensing requirements that allow the Board to approve educational institutions and coursework to specify that applicants can obtain the required degree from "a college or university accredited by an accrediting body recognized by the United States Department of Education."

[23] The National Council of Examiners for Engineering and Surveying (NCEES), *Surveying Licensure*, https://ncees.org/surveying/surveying-licensure/ (last visited Jan. 27, 2024).
[24] The National Council of Examiners for Engineering and Surveying (NCEES), *NCEES Member Licensing Boards*, https://ncees.org/member-licensing-boards/ (last visited Jan. 27, 2024).
[25] NCEES, *supra* note 24.
[26] North Carolina Society of Surveyors, *Licensure Requirements in North Carolina*, https://www.ncsurveyors.com/education/licensure_requirements (last visited Jan. 27, 2024).

The bill creates additional pathways for people to become licensed as a surveyor and mapper, while maintaining the prerequisite to take the licensure examination. Applicants are no longer required to obtain a four year bachelor's degree if the applicant:

- Received an **associate degree or a high school diploma** and completes a minimum of 25 semester hours specific to surveying and mapping at a college or university accredited by an accrediting body recognized by the United States Department of Education.
    - The hours may be from courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences.
    - Such applicants must have **six or more years' experience** as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, **five years of which must be of a nature indicating that the applicant was in responsible charge of the work performed**.
- Hold a **valid license** to practice surveying and mapping **in another state**, jurisdiction, or territory, and:
    - Gave **two years of experience in the active practice** of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.
- Have received a **registered apprenticeship certificate** in surveying and mapping after completing a registered apprenticeship program approved by the Department of Education, and:
    - Have an experience record of **two or more years as a subordinate** to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

The bill specifies that work experience acquired as a part of the education requirements may not be construed as experience in responsible charge.

Regarding a bachelor's degree in a course of study other than surveying and mapping, the bill removes a provision authorizing the Board to approve any of the required 25 semester hours of study completed not as a part of the bachelor's degree, its equivalent, or higher.

The bill allows exiled foreign-trained professionals who have practiced the profession for three years to substitute this experience for the current education requirement.

B. SECTION DIRECTORY:

Section 1: amends s. 472.0101, F.S., relating to foreign-trained professionals, special examination and license provisions.

Section 2: amends s. 472.013, F.S., relating to examinations, prerequisites.

Section 3: provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. The bill may have a positive impact on examination and licensing revenue, to the extent that additional individuals will take the licensure examination and become licensed. All funds collected are deposited into the DACS General Inspection Trust Fund. According to DACS, it "could experience an indeterminate positive fiscal impact due to new applicant fees."[27]

2. Expenditures:

[27] Department of Agriculture and Consumer Services, Agency Analysis of 2024 SB 1776, p. 2 (Jan. 24, 2024).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill creates additional pathways so that applicants are no longer required to obtain a bachelor's degree to qualify to take the licensure examination to practice as a surveyor and mapper, which will lower the cost and time it takes to become licensed, and allow more people to practice their chosen profession.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Agency rules may have to be amended to change current education and work experience requirements. Current law appears to provide sufficient rulemaking authority for DACS to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to professional licensure; amending s. 472.0101, F.S.; authorizing the practice of a profession as a substitute for certain professional or occupational degrees for certain foreign-trained professionals; amending s. 472.013, F.S.; revising education and work experience requirements for taking the surveyor and mapper licensure examination; providing an effective date.

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

Section 1. Paragraph (e) of subsection (1) of section 472.0101, Florida Statutes, is amended, and paragraph (d) of that subsection is republished, to read:

472.0101 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, the department shall by rule provide procedures under which exiled professionals may be examined under this chapter. A person is eligible for the examination if the exiled professional:

(d) Demonstrates to the department, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational

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

degree from a college or university. However, the department may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years. Such practice of the profession may be substituted for the professional or occupational degree requirement under paragraph (d);

Section 2. Subsection (2) of section 472.013, Florida Statutes, is amended to read:

472.013 Examinations, prerequisites.—

(2) An applicant shall be entitled to take the licensure examination to practice in this state as a surveyor and mapper if the applicant is of good moral character and has satisfied one of the following requirements:

(a) The applicant has received a bachelor's degree, its equivalent, or higher in surveying and mapping or a similarly titled program, including, but not limited to, geomatics, geomatics engineering, and land surveying, from a college or university accredited by an accrediting body recognized by the United States Department of Education ~~board~~ and has a specific experience record of 4 or more years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work

performed. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(b) The applicant has received a bachelor's degree, its equivalent, or higher in a course of study, other than in surveying and mapping, at a ~~an accredited~~ college or university accredited by an accrediting body recognized by the United States Department of Education and has a specific experience record of 6 or more years as a subordinate to a registered surveyor and mapper in the active practice of surveying and mapping, 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed a minimum of 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education ~~approved by the board~~ in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. ~~Any of the required 25 semester hours of study completed not as a part of the bachelor's degree, its equivalent, or higher may be approved at the discretion of the board.~~ Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(c) The applicant has received an associate degree and has a specific experience record of at least 6 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, at least 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed at least 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education in surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(d) The applicant has received a high school diploma or its equivalent and has a specific experience record of at least 6 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, at least 5 years of which shall be of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. The applicant must have completed at least 25 semester hours from a college or university accredited by an accrediting body recognized by the United States Department of Education in

surveying and mapping subjects or in any combination of courses in civil engineering, surveying, mapping, mathematics, photogrammetry, forestry, or land law and the physical sciences. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

(e) The applicant holds a valid license to practice surveying and mapping in another state, jurisdiction, or territory, and has at least 2 years of experience in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed.

(f) The applicant has received a registered apprenticeship certificate in surveying and mapping after completing a registered apprenticeship program approved by the Department of Education and has a specified experience record of at least 2 years as a subordinate to a professional surveyor and mapper in the active practice of surveying and mapping, which experience is of a nature indicating that the applicant was in responsible charge of the accuracy and correctness of the surveying and mapping work performed. Work experience acquired as a part of the education requirement may not be construed as experience in responsible charge.

Section 3. This act shall take effect July 1, 2024.

HB 1579

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1579 Occupational Licensing
SPONSOR(S): Mooney
TIED BILLS: **IDEN./SIM. BILLS:** SB 1142

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

Part I of Chapter 489, F.S., addresses the licensure and regulation of construction contractors. Construction contractors are either certified for statewide practice or registered as a locally licensed contractor by the Construction Industry Licensing Board (CILB), housed within the Department of Business and Professional Regulation (DBPR). The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.

In 2021, HB 735 was enacted, relating to preempting occupational licensing to the state, and 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 statutory or specialty contractor category licensed by the CILB.

In 2023, HB 1383 was enacted, as a follow-up to HB 735 in 2021. The law extended the expiration date for local licensing and established new specialty license categories. Recently, some local governments have stopped performing certain local licensing functions related to specialty contractors.

The bill requires the CILB to issue a registration to an eligible applicant to engage in the business of contracting in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a statutory category of contractor licensed by the CILB.
- The applicant submits all of the following to the CILB:
  - Evidence of the certificate of registration or local license held by the applicant.
  - Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license.
  - Evidence that the applicant has submitted the required fee.
  - Evidence of compliance with certain insurance and financial responsibility requirements.

The bill provides that an examination is not required for an applicant seeking such a registration.

The bill provides that the CILB is responsible for disciplining licensees issued such a registration. The CILB must make such licensure and disciplinary information available through the automated information system.

The bill does not appear to have a fiscal impact on local governments, and has an indeterminate fiscal impact on state government. *See* Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

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.[1]

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.[2]

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.[3]

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.[4] Every local government must enforce the Building Code and issue building permits.[5] 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.[6]

Construction 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.[7]

"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

[1] *Id*.
[2] *See* s. 553.72(1), F.S.
[3] Ss. 553.73 and 553.74, F.S.
[4] S. 553.72, F.S.
[5] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[6] Ss. 125.56(4)(a) and 553.79(1), F.S.
[7] S. 489.107, F.S.

competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.[8]

“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.[9]

The CILB licenses the following types of contractors:[10]

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

HB 735 (2021 Regular Session)

In 2021, HB 735[11] 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.

[8] S. 489.105, F.S.
[9] S. 489.103, F.S.
[10] S. 489.105(a)-(q), F.S.; R. 61G4-15.015-.040, F.A.C.
[11] Ch. 2021-214, L.O.F.

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.

Also, 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 July 1, 2023.

The law 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.

HB 1383 (2023 Regular Session)

In 2023, HB 1383[12] was enacted, relating to local construction licensing, as a follow-up to HB 735 in 2021.

The law extended the expiration date for local licensing without general law authority to July 1, 2024, from July 1, 2023.

The law requires the CILB, by July 1, 2024, 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.
- Plaster and lath.
- Structural carpentry.

The law 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 when the scope of the project does not include a task for which a state license is required, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, pressure washing, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

The law allows a local government to continue to offer a license for veneer work, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories; and fence installation and erection, if the local government imposed such a licensing requirement before January 1, 2021.

Since the passage of HB 1383 in 2023, some local governments have stopped performing certain local licensing functions for contractors.[13]

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[12] Ch. 2023-271, L.O.F.

[13] For example, Lee County is no longer issuing new licenses. Lee County, Contractor Licensing, https://www.leegov.com/dcd/ContLic (last visited Jan. 27, 2024).

Automated Information System

Section 455.2286, F.S., requires DBPR to implement an automated information system for all building code enforcement, professional engineer, architects, interior designers, landscape architects, and **contractor licensees**. The system must provide instant notification to local building departments and other interested parties regarding the status of the license. The provision of such information must consist, at a minimum, of an indication of:

- Whether the license is active,
- Any current failure to meet the terms of any final action by a licensing authority,
- Any ongoing disciplinary cases that are subject to public disclosure,
- Whether there are any outstanding fines, and
- The reporting of any material violations of the Building Code.[14]

The system must also retain information developed by DBPR and local governments on individuals found to be practicing or contracting without holding the applicable license, certification, or registration required by law.[15]

Effect of the Bill

The bill requires the CILB to issue a registration to an eligible applicant to engage in the "business of a contractor" in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a statutory category of contractor licensed by the CILB.
- The applicant submits all of the following to the CILB:
    - Evidence of the certificate of registration or local license held by the applicant.
    - Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an email or letter from the office of the local building official or local building department stating that such licensing is not required or available in that local jurisdiction.
    - Evidence that the applicant has submitted the required fee.
    - Evidence of compliance with certain insurance and financial responsibility requirements.

The provides that an examination is not required for an applicant seeking such a registration.

The bill provides that the CILB is responsible for disciplining licensees issued such a registration. The CILB must make such licensure and disciplinary information available through the automated information system.

The bill provides that the fees for an applicant seeking such a registration and renewal of such registration every 2 years are the same as the fees established by the CILB for applications, registration and renewal, and record making and recordkeeping. DBPR must mail each registrant an application for renewal.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 489.117, F.S.; requiring issuance of a local license under certain circumstances.

Section 2: Provides an effective date.

[14] S. 455.2286, F.S.

[15] *Id*.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have an indeterminate fiscal impact on revenues, as an unknown number of applicants will seek a registration from DBPR based on a local license.

2. Expenditures:

The bill requires DBPR to mail each registrant an application for renewal. An online renewal process already exists for online application processing as well as electronic payment of renewals fees. DBPR currently provides notice via email to licensees prior to their license renewal period opening and licensees can conveniently renew online through the licensing portal. The cost to mail renewal applications, which are already sent to licensees via email, will have a significant but indeterminate impact on DBPR. Additionally, the time it will take to process paper renewal applications that get mailed back to the department will severely impact a licensee's ability to renew a license faster compared to the short amount of time it takes to renew online.

DBPR can absorb any additional complaint and investigative responsibilities without requiring additional resources.[16]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may assist those contractors who chose local licensure rather than statewide licensure to remain in the workforce if the local jurisdiction stops issuing local licenses.

D. FISCAL COMMENTS:

The bill will have an indeterminate impact on DBPR.

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:

[16] DBPR, Agency Analysis of 2024 Senate Bill 1142, p.6 (Jan. 16, 2024).

DBPR will need to adopt rules related to new registration applications.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to occupational licensing; amending s. 489.117, F.S.; requiring the Construction Industry Licensing Board within the Department of Business and Professional Regulation to issue registrations to eligible persons under certain circumstances; providing that the board is responsible for disciplining such licensees; requiring the board to make licensure and disciplinary information available through the automated information system; providing for the fees for the issuance of the registrations and renewal registrations; requiring the department to mail registrants renewal applications; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1) and subsection (2) of section 489.117, Florida Statutes, are amended to read:

489.117 Registration; specialty contractors.—

(1)(a) A ~~Any~~ person engaged in the business of a contractor as defined in s. 489.105(3)(a)-(o) must be registered before engaging in business as a contractor in this state,

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

unless he or she is certified. Except as provided in paragraph (2)(b), to be initially registered, the applicant must ~~shall~~ submit the required fee and file evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired. An examination is not required for registration.

(b) Registration allows the registrant to engage in contracting only in the counties, municipalities, or development districts where he or she has complied with all local licensing requirements, if any, and only for the type of work covered by the registration.

(2)(a) Except as provided in paragraph (b), the board may not issue a ~~No~~ new registration ~~may be issued by the board~~ after July 1, 1993, based on any certificate of competency or license for a category of contractor defined in s. 489.105(3)(a)-(o) which is issued by a municipal or county government that does not exercise disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in s. 489.131(7). For purposes of this subsection and s. 489.131(10), the board shall determine the adequacy of such disciplinary control by reviewing the local government's ability to process and investigate complaints and to take disciplinary action against locally licensed contractors.

(b) The board shall issue a registration to an eligible

applicant to engage in the business of a contractor in a specified local jurisdiction, provided each of the following conditions are satisfied:

1. The applicant held, in any local jurisdiction in this state during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a category of contractor defined in s. 489.105(3)(a)-(o).

2. The applicant submits all of the following to the board:

a. Evidence of the certificate of registration or local license held by the applicant as required by subparagraph 1.

b. Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an email or letter from the office of the local building official or local building department stating that such licensing is not required or available in that local jurisdiction.

c. Evidence that the applicant has submitted the required fee.

d. Evidence of compliance with the insurance and financial responsibility requirements of s. 489.115(5).

An examination is not required for an applicant seeking a registration under paragraph (b).

(c) The board is responsible for disciplining licensees issued a registration under paragraph (b). The board shall make such licensure and disciplinary information available through the automated information system provided pursuant to s. 455.2286.

(d) The fees for an applicant seeking a registration under paragraph (b) and renewal of such registration every 2 years are the same as the fees established by the board for applications, registration and renewal, and record making and recordkeeping, as set forth in s. 489.109. The department shall mail each registrant an application for renewal.

Section 2. This act shall take effect July 1, 2024.

HB 1647

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1647 Local Regulation of Nonconforming and Unsafe Structures
SPONSOR(S): Roach
TIED BILLS: **IDEN./SIM. BILLS:** SB 1526

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

A building permit must be obtained from the local government to demolish any building. Some local governments in Florida have placed additional requirements or restrictions on obtaining such permits for buildings deemed historic.

The bill creates the "Resiliency and Safe Structures Act," which allows demolition of certain buildings under certain conditions, and provides that:

- The provisions do not apply to any structure that is:
  - A single-family home,
  - Individually listed on the National Register of Historic Places,
  - A contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000, or
  - On a barrier island in a municipality with a population of less than 10,000 with at least six city blocks not located in zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map.
- A local government may not prohibit, restrict, or prevent, for any reason other than public safety, the demolition of any structure **seaward of the coastal construction control line** and is also a:
  - Nonconforming structure, which is a structure that does not conform to the base flood elevation requirements for new construction issued by the National Flood Insurance Program for the applicable flood zone;
  - Structure determined to be unsafe by the local building official; or
  - Structure ordered to be demolished by the local government.
- A local government may only administratively review an application for a demolition permit for such a structure for compliance with the Building Code, the Fire Prevention Code, and any regulation applicable to a similarly situated parcel, and may not impose additional local land development regulations or public hearings on an applicant for such a demolition permit.
- A local government must authorize replacement structures to be developed to the maximum height and overall building size authorized by local development regulations.
- A local government may not do any of the following:
  - Limit the development potential of replacement structures below the maximum development potential allowed by local development regulations.
  - Require replication or preservation of elements of a demolished structure.
  - Impose additional regulatory or building requirements on replacement structures or development applications not otherwise applicable to a similarly situated parcel in the same zoning district.
- A local government may not adopt or enforce a law that in any way limits application of the bill's provisions.
- The requirements under the bill may be applied retroactively to local regulations or ordinances.

The bill has an indeterminate fiscal impact on local governments and does not appear to have a fiscal impact on state government. *See* Fiscal Comments.

The bill provides an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code. In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work and a study was commissioned to make recommendations. In 1998, the Legislature adopted the recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[1] The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.[2]

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (FBCA). The Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[3]

A local enforcement agency is an agency of local government with jurisdiction to make inspections of buildings and to enforce the Building Code.[4]

Building code administrators are regulated by the Building Code Administrators and Inspectors Board (BCAIB) within DBPR.[5] 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.[6]

Demolition Permits

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or **demolish** any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[7]

Section 553.79(26, F.S., provides that a local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish his or her **single-family residential structure** provided that:[8]

- Such structure Is located in a coastal high-hazard area, moderate flood zone, or special flood hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency (FEMA) for the purpose of participating in the National Flood Insurance Program;

[1] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, 4, https://www.floridabuilding.org/fbc/commission/FAC_Report_0206r3.pdf (last visited Jan. 27, 2024).
[2] Florida Building Commission, Homepage, https://floridabuilding.org/c/default.aspx (last visited Jan. 27, 2024).
[3] *See* s. 553.72(1), F.S.
[4] S. 553.71(5), F.S.
[5] *See* Ss. 120.569, 120.57(1)-(2), 468.605, 468.606, and 468.621, F.S.
[6] S. 468.603(2), F.S.
[7] S. 553.79(1), F.S.
[8] S. 553.79(26)(a), F.S.

- The lowest finished floor elevation of such structure is at or below base flood elevation as established by the Building Code or a higher base flood elevation as may be required by local ordinance, whichever is higher; and
- Such permit complies with all applicable Building Code, Fire Prevention Code, and local amendments to such codes.

An application for such a demolition permit may only be reviewed administratively for compliance with the Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulations applicable to a similarly situated parcel. Applications may not be subject to any additional local land development regulations or public hearings. A local government may not penalize a private property owner for a demolition that is in compliance with the demolition permit.[9]

If a single-family residential structure is demolished pursuant to a demolition permit, a local government may not impose additional regulatory or building requirements on the new, replacement single-family residential structure on the site of the demolished structure which would not otherwise be applicable to a similarly situated vacant parcel.[10]

However, a local law, ordinance, or regulation may restrict demolition permits for a:[11]
- Structure designated on the National Register of Historic Places;
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.

Permits for Property with a Historic Designation

The National Register of Historic Places is the federal government's official list of historic places in the United States. The National Historic Preservation Act of 1966 authorized the register, which is administered by the National Park Service. In order to be listed on the register the owner of the property must not object.[12] The Department of the Interior issues advisory guidelines for a building that must undergo preservation, rehabilitation, restoration, or reconstruction and still retain historic status.[13]

Additionally, some local governments in Florida have adopted land development regulations that designate certain older buildings to be historic. These local governments have placed restrictions on property owners from obtaining permits for the demolition of older buildings that the local government has deemed historic. Below are examples of such regulations:
- Requiring a special demolition permit process,[14] and
- Requiring new construction on the site of the demolished structure to be subject to certain architectural regulations, related to:[15]
    - The colors, pattern, and trim used in the building's façade.
    - The design of the roof.
    - The proportions and relationships between doors and windows.

Proponents of these land development regulations argue that these regulations are needed to protect Florida's history and preserve Florida's character and architectural style.[16] Opponents of these

[9] S. 553.73(26)(b), F.S.
[10] S. 553.79(26)(c), F.S.
[11] S. 553.79(26)(d), F.S.
[12] National Park Service, *What is the National Register of Historic Places*, https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm (last visited Jan. 27, 2024); National Park Service, *How to List a Property*, https://www.nps.gov/subjects/nationalregister/how-to-list-a-property.htm (last visited Jan. 27, 2024).
[13] National Park Service, *The Secretary of the Interior's Standards for the Treatment of Historic Properties*, https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm (last visited Jan. 29. 2024); 36 C.F.R. Parts 67 and 68.
[14] Sec. 54-71., 54-125., Town of Palm Beach Code of Ordinances.
[15] Sec. 54-122., Town of Palm Beach Code of Ordinances.
[16] Miami Herald Editorial Board, *Historic-home teardowns risk washing away Miami Beach's character in a flood of cash*, Miami Herald (Jan. 11, 2022) https://www.miamiherald.com/article257198932.html (last visited Jan. 27, 2024).

regulations argue that these older buildings are damaged, do not meet the Building Code's minimum flood elevation requirements, which can make them dangerous and can be demolished for new structures or buildings that meet the requirements of the current Building Code.[17]

There appear to be conflicts[18] in some areas related to whether older buildings that may be unsafe should be demolished or be given time to be rehabilitated. Some argue that policies related to demolition are having an effect on affordable housing.[19]

Unsafe Structures

Under the Florida Building Code, Existing Building, 8th Edition, buildings, structures or equipment shall be deemed unsafe if they are:[20]

- Unsanitary,
- Deficient due to inadequate means of egress facilities or inadequate light and ventilation,
- A fire hazard,
- Structures or have individual structural members that are dangerous, meaning:
    - The building or structure has collapsed, has partially collapsed, has moved off its foundation, or lacks the necessary support of the ground.
    - There exists a significant risk of collapse, detachment or dislodgement of any portion, member, appurtenance or ornamentation of the building or structure under permanent, routine or frequent loads; under actual loads already in effect; or under wind, rain, flood or other environmental loads when such loads are imminent.
- Otherwise dangerous to human life or the public welfare,
- Involved in illegal or improper occupancy or inadequate maintenance, or
- Vacant and not secured against entry.

Various local governments across the state impose additional regulations regarding what deems a structure unsafe and what happens when a structure is deemed unsafe.

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.[21] The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.[22] The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk and to reduce flood risk through the adoption of floodplain management standards. Participation in the NFIP is voluntary.[23] Within participating communities, the federal government makes flood insurance available throughout the community.[24] To join, a community must:

- Complete an application;

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[17] Pedro Portal, *Miami Beach older homes demolished in part because of 'flood requirements'*, Miami Herald (Jan. 9, 2022) https://www.miamiherald.com/news/business/real-estate-news/article257166737.html (last visited Jan. 27, 2024); CBS Miami, *Miami Beach Waterfront Home Of Notorious Prohibition-Era Gangster Al Capone Slated For Demolition*, https://www.cbsnews.com/miami/news/miami-beach-waterfront-home-of-notorious-prohibition-era-gangster-al-capone-slated-for-demolition/ (last visited Jan. 27, 2024).

[18] In November 2022, news reports indicated that there were "dozens of ongoing lawsuits that have recently been filed between property owners and the City of Miami over attempts to demolish their properties. WLRN Miami | South Florida, *After Surfside, Miami changes rules to fast-track demolition. Affordable housing is in the crosshairs*, December 5, 2022, https://www.wlrn.org/housing/2022-12-05/after-surfside-miami-changes-rules-to-fast-track-demolition-affordable-housing-is-in-the-crosshairs (last visited Jan. 27, 2024).

[19] In 2022, approximately "48 buildings were demolished by city order, including 30 residential properties. In 2019, 52 buildings were demolished by order of the city." *Id*.

[20] § 202, FBC, Existing Building (2023 8th Ed.).

[21] FEMA, *50 Years of the NFIP*, *available at* https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf (last visited Jan. 27, 2024).

[22] Benefits.gov, *National Flood Insurance Program (NFIP)*, *available at* https://www.benefits.gov/benefit/435 (last visited Jan. 27, 2024)

[23] FEMA, *Participation in the NFIP*, https://www.fema.gov/glossary/participation-nfip#:~:text=Participation%20in%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,of%20intent%20to%20participate%20and%20cooperate%20with%20FEMA%3B (last visited Jan. 27, 2024).

[24] *Id.*

- Adopt a resolution of intent to participate and cooperate with FEMA; and
- Adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria.[25]

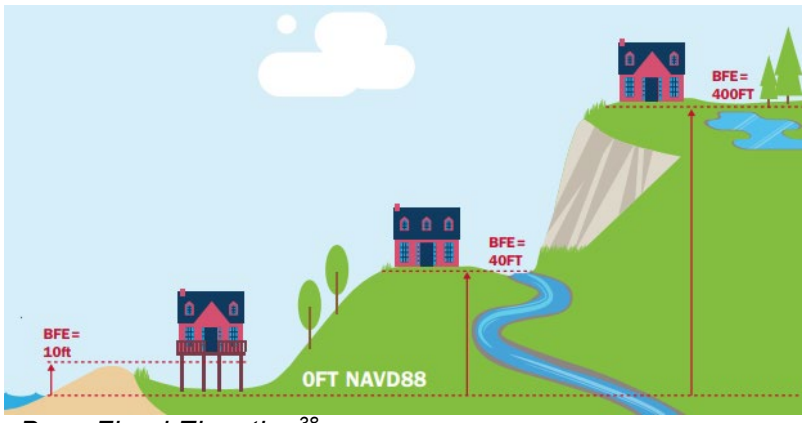
In coordination with participating communities, FEMA develops flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain.[26] While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the map into its local regulations in order for the map to be effective.[27] An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA).[28] The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a 1-in-100 year flood or greater frequency. This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every year[29] (and at least a 26 percent chance of flooding over the course of a 30-year mortgage).[30] In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.[31]

Base Flood Elevation

A base flood is a flood that has a one percent chance of occurring during any given year.[32] The base flood elevation (BFE) is how high floodwater is likely to rise during a one-percent-annual-chance flood event (base flood).[33] BFEs are measured from a reference point called North American Vertical Datum of 1988 (NAVD88)[34], which is approximately equal to sea level, and vary widely across geographies.[35] The BFE represents the minimum elevation of construction allowed by the NFIP.[36] The relationship between the BFE and a structure's elevation determines the flood insurance premium.[37]

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[25] *Id.*
[26] Congressional Research Service, *Introduction to the National Flood Insurance Program* (Jan. 25, 2024), https://crsreports.congress.gov/product/pdf/R/R44593 (last visited Jan. 27, 2024).
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf (last visited Jan. 27, 2024).
[31] Congressional Research Service, *Introduction to the National Flood Insurance Program* at 10. Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation (FDIC) or the Office of the Comptroller of the Currency. *Id.*
[32] FEMA, *supra* note 29.
[33] *Id.*
[34] "A 'geodetic reference system' is used to precisely describe the location of a specific point on the Earth and is composed of latitude, longitude, and elevation. Its basis is composed of a geoid and a reference ellipsoid — two mathematical representations of the Earth's surface — along with base points to which the latitude, longitude and elevation of all other points in the system are referenced. These base points are known as 'datums'. The latitude-longitude base point is known as a horizontal datum, and the elevation base point is known as a vertical datum. Vertical datums are used to establish the elevation of monitoring locations, reference points and natural features such as lake levels and floodplains, as well as for bridges and levies. The currently accepted vertical datum is the **North American Vertical Datum of 1988 (NAVD88)**, which was formally adopted in 1992. It consists of a leveling network that applies to the entire North American continent and which is affixed to a single origin point in Quebec, Canada." Coastal & Heartland National Estuary Partnership, University of South Florida Water Institute*, NAVD88 Datum*, Coastal & Heartland National Estuary Partnership Water Atlas, https://chnep.wateratlas.usf.edu/library/learn-more/learnmore.aspx?toolsection=lm_navd88 (last visited Jan. 27, 2024).
[35] FEMA, *supra* note 29.
[36] *See* FEMA, *Residential Buildings with Basements*, https://www.fema.gov/floodplain-management/manage-risk/residential-buildings-basements#:~:text=Since%201971%2C%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,Zones%20only%29%20to%20the%20Base%20Flood%20Elevation%20%28BFE%29 (last visited Jan. 27, 2024).
[37] *See* Pinellas County, *Construction in a Floodplain*, Sept. 13, 2022, https://pinellas.gov/construction-in-a-floodplain/ (last visited Jan. 27, 2024).



Base Flood Elevation[38]

Zones

Within the FIRMS or Flood Hazard Boundary Maps are designated zones, which are geographical areas that reflect the severity or type of flooding in the area.[39] Designated zones include:[40]

- V: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. No base flood elevations are shown within these zones.
- VE: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.
- AO: River or stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.
- AE: The base floodplain where base flood elevations are provided. AE Zones are now used on new format FIRMs instead of A1-A30 Zones.

Flood maps along the coasts show areas at high risk of flooding within the coastal SFHA. The coastal SFHA has three flood hazard zones: Zones V and VE (which are unique to coastal areas), AE, and AO. Zones V and VE, also known as a Coastal High Hazard Area, is where wave action and fast-moving water can cause extensive damage during a base flood event.[41]

New Construction Requirements in Coastal Flood Hazard Zones

When a community is participating in the NFIP, FEMA places requirements on any new construction built in flood hazard areas. Generally, new construction in flood-prone areas must be:[42]

- Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- Constructed with materials resistant to flood damage;
- Constructed by methods and practices that minimize flood damages; and
- Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Specific conditions for new construction in coastal flood hazard zones include requiring all new construction to:[43]

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[38] FEMA, *supra* note 29.
[39] FEMA, *Glossary,* https://www.fema.gov/about/glossary (last visited Jan. 27, 2024).
[40] *Id.*
[41] *Id.*
[42] 44 C.F.R. § 60.3(a)(3)
[43] 44 C.F.R. § 60.3(e)(3)-(5)

- Be located landward of the reach of mean high tide;
- Be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
- Be elevated on pilings and columns so that the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
- Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
    - Such space may be used only for parking of vehicles, building access, or storage.

When an NFIP-participating structure, in an SFHA, has "substantial damage"[44] for which the total cost of repairs is 50 percent or more of the structure's market value before a disaster occurred, regardless of the cause of damage, the structure must undergo a "substantial improvement" and be brought into compliance with current local floodplain-management regulations and the Building Code. The decision and specific metrics used to determine if a structure is substantially damaged is made by the local government.[45]

For example, the City of Naples determined that a substantial improvement means any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a one-year period from the date of permit issuance, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. Substantial improvement does not include:[46]

- Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Coastal Construction Control Line

The Department of Environmental Protection (DEP) regulates coastal construction to protect Florida's beaches and dunes from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.[47] Coastal construction is defined as any work or activity likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.[48]

Section 161.053, F.S., defines the "coastal construction control line" (CCCL) as the portion of the beach-dune system that is subject to severe fluctuations caused by 100-year storm[49] surge, storm

[44] 44 C.F.R. § 59.1
[45] FEMA, *FACT SHEET: "Substantial Damage" – What Does it Mean?*, December 2, 2019, https://www.fema.gov/press-release/20210318/fact-sheet-substantial-damage-what-does-it-mean (last visited Jan. 27, 2024).
[46] Sec. 16-112., City of Naples Ordinances.
[47] S. 161.053(1)(a), F.S.
[48] S. 161.021(6), F.S.
[49] A 100-year storm is a shore-incident hurricane or any other storm with accompanying wind, wave, and storm surge intensity that has a one percent chance of being equaled or exceeded in any given year. S. 161.053, F.S.; Rr. 62B-33.005(1) and 62B-33.002(41), F.A.C.; DEP, *The Homeowner's Guide to the Coastal Construction Control Line Program* (2017), 3, *available at* https://floridadep.gov/sites/default/files/Homeowner%27s%20Guide%20to%20the%20CCCL%20Program%206_2012%20%28002%29_0.pdf (last visited Jan. 27, 2024).

waves, or other forces such as wind, wave, or water level changes. Seaward of the CCCL, new construction and improvements to existing structures generally require a CCCL permit from DEP.[50]

Due to the potential environmental impacts and greater risk of hazards from wind and flood, the standards for construction seaward of the CCCL are often more stringent than those that apply to the rest of the coastal building zone.[51] Permit applicants must show that the proposed project will not result in a significant adverse impact.[52] CCCLs are set by DEP on a countywide basis and are currently established for the majority of Florida's coast.[53]

The "mean high-water line" is the point on the shore that marks the average height of the high waters over a 19-year period.[54] The mean high-water line is generally the boundary between the publicly owned shore (the land alternately covered and uncovered by the tide) and the dry sand above the line, which may be privately owned.[55] Generally, construction is prohibited within 50 feet of the mean high-water line, known as the 50-foot setback.[56] Any structures below the mean high-water line that are determined by DEP to serve no public purpose; to endanger human life, health, or welfare; or to be undesirable or unnecessary must be adjusted, altered, or removed.[57]

Above the mean high-water line is the "seasonal high-water line," which accounts for variations in the local mean high water, such as spring tides that occur twice per month.[58] The seasonal high-water line is used to create 30-year erosion projections of long-term shoreline recession based on historical measurements.[59] DEP makes 30-year erosion projections of the location of the seasonal high-water line on a site-specific basis upon receipt of a CCCL permit application.[60] With certain exceptions, DEP and local governments may not issue CCCL permits for the construction of major structures that are seaward of the 30-year erosion projection.[61]

Effect of the Bill

The bill creates the "Resiliency and Safe Structures Act" (act), and provides the following definitions:

- "CCCL" means the boundary established under s. 161.053.
- "Law" means any statute, ordinance, rule, regulation, policy, resolution, code enforcement order, agreement, or other governmental act.
- "Local government" means a municipality, county, special district, or any other political subdivision of the state.
- "Nonconforming structure" means a structure or building that does not conform to the base flood elevation requirements for new construction issued by the National Flood Insurance Program (NFIP) for the applicable flood zone.
- "Replacement structure" means a new structure or building built on a property where a structure or building was demolished or will be demolished in accordance with this section.

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[50] S. 161.053, F.S.; Chs. 62B-33 and 62B-34, F.A.C.; DEP, *supra* note 48; DEP, *ASK - Have Questions about the Coastal Construction Control Line (CCCL)?*, *available at* https://floridadep.gov/rcp/coastal-construction-control-line/content/ask-have-questions-about-coastal-construction-control (last visited Jan. 27, 2024).
[51] Ch. 62B-33, F.A.C.
[52] R. 62B-33.005, F.A.C
[53] S. 161.053(2), F.S.; DEP Geospatial Open Data, Coastal Construction Control Lines (CCCL), https://geodata.dep.state.fl.us/datasets/4674ee6d93894168933e99aa2f14b923_2/explore?location=28.136793%2C-81.915502%2C8.56 (last visited Jan. 27, 2024).
[54] S. 177.27(14), (15), F.S.
[55] Ss. 161.052(1), 161.151(3), 161.161(3)-(5), 161.191, and 177.28, F.S. Where an "erosion control line" is established, it serves as the mean high-water line when it is landward of the existing mean high-water line, and all lands seaward of a recorded erosion control line are deemed to be vested in the state.
[56] R. 62B-33.002(17), F.A.C.
[57] S. 161.061, F.S.
[58] S. 161.053(5)(a)2., F.S., defines "seasonal high-water line" to mean the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water; NOAA, *What Are Spring and Neap Tides?*, *available at* https://oceanservice.noaa.gov/facts/springtide.html (last visited Jan. 27, 2024).
[59] Ch. 62B-33.024, F.A.C.
[60] *Id*.
[61] S. 161.053(5), F.S.; DEP, *supra* note 48.

The bill **applies to** any structure or building on a property in which all or a portion of such property is seaward of the CCCL and the structure or building is:

- A nonconforming structure;
- A structure or building determined to be unsafe by a local building official; or
- A structure or building ordered to be demolished by a local government with proper jurisdiction.

The bill **does not apply to** any of the following structures or buildings:

- A structure or building individually listed in the National Register of Historic Places.
- A single-family home.
- A contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000.
- A structure or building located on a barrier island in a municipality with a population of less than 10,000 according to the most recent decennial census and which has at least six city blocks that are not located in zones V, VE, AO, or AE, as identified in the FIRM issued by FEMA.

The bill prohibits a local government from prohibiting, restricting, or preventing the demolition of any structure or building to which the bill applies for any reason other than public safety. A local government may only administratively review an application for a demolition permit sought pursuant to the bill for compliance with the Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not impose additional local land development regulations or public hearings on an applicant for a permit under the bill.

The bill requires a local government to authorize replacement structures for qualifying buildings to which the bill applies to be developed to the maximum height and overall building size authorized by local development regulations for a similarly situated parcel within the same zoning district. A local government may not do any of the following:

- Limit, for any reason, the development potential of replacement structures below the maximum development potential allowed by local development regulations for a similarly situated parcel within the same zoning district.
- Require replication of a demolished structure.
- Require the preservation of any elements of a demolished structure.
- Impose additional regulatory or building requirements on replacement structures which would not otherwise be applicable to a similarly situated vacant parcel located in the same zoning district.
- Impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel within the same zoning district.

The bill requires that development applications submitted for replacement structures for qualifying buildings to which the bill applies must be processed in accordance with the process outlined in local land development regulations, including any required public hearings in front of the local historic board. However, a local government may not impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel within the same zoning district.

The bill applies retroactively to any law adopted contrary to the bill or its intent, and must be liberally construed to effectuate its intent.

The bill does not apply to or affect demotion processes for single-family homes under s. 553.79(26), F.S.

The bill provides that a local government may not adopt or enforce a law that in any way limits the demolition of an applicable structure or that limits the development of a replacement structure in violation of the bill. A local government may not penalize an owner or a developer of a replacement structure for a demolition pursuant to this section or otherwise enact laws that defeat the intent of this section. Any local government law contrary to this section is void.

The bill provides an effective date of upon becoming law.

B. SECTION DIRECTORY:

Section 1: Creates s. 553.8991, F.S., relating to demolition of certain buildings and structures.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There may be an increase in demolition permits, which may create an increase in permit revenue.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more structures to be demolished and new structures to be built in their places, which would increase development.

D. FISCAL COMMENTS:

Local governments may have to expend funds to process a possible increase in demolition permits. The amount local governments will have to spend, if any, is indeterminate. However, local governments are permitted by state law to collect fees to cover the cost of their expenses to enforce the Building Code, which includes reviewing building permit applications.

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:

Retroactivity

In determining whether a law may be applied retroactively, courts first determine whether the law is procedural, remedial, or substantive in nature.[62] A purely procedural or remedial law may apply retroactively without offending the Constitution, but a substantive law generally may not apply retroactively absent clear legislative intent to the contrary.[63] However, even where the Legislature has expressly stated that a law will have retroactive application, a court may reject that application if the law impairs a vested right, creates a new obligation, or imposes a new penalty.[64] Further, where a law is designed to serve a remedial purpose, a court may decide not to apply the law retroactively where doing so "would attach new legal consequences to events completed before its enactment."[65]

Whether some of bill's language is procedural, remedial, or substantive, is for the courts to decide.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

[62] A procedural law merely establishes the means and methods for applying or enforcing existing duties or rights. A remedial law confers or changes a remedy, i.e., the means employed in enforcing an existing right or in redressing an injury. A substantive law creates, alters, or impairs existing substantive rights. *Windom v. State*, 656 So. 2d 432 (Fla. 1995); *St. John's Village I, Ltd. v. Dept. of State*, 497 So. 2d 990 (Fla. 5th DCA 1986); *McMillen v. State Dept. of Revenue*, 74 So. 2d 1234 (Fla. 1st DCA 1999).
[63] *State Farm Mutual Automobile Ins. Co. v. Laforet*, 658 So. 2d 55 (Fla. 1995).
[64] *Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873 (Fla. 2010).
[65] *L. Ross, Inc. v. R.W. Roberts Const. Co.*, 481 So. 2d 484 (Fla. 1986).

A bill to be entitled

An act relating to local regulation of nonconforming and unsafe structures; creating s. 553.8991, F.S.; providing a short title; defining terms; providing applicability; prohibiting local governments from prohibiting, restricting, or preventing the demolition of certain structures and buildings unless necessary for public safety; prohibiting local governments from imposing additional local land development regulations or public hearings on permit applicants; authorizing a local government to administratively review an application for a demolition permit only for a specified purpose; requiring a local government to authorize replacement structures to be developed in accordance with certain regulations; prohibiting local governments from taking certain actions regarding replacement structures; requiring development applications to be processed in a specified manner; providing for retroactive application; providing construction; preempting regulation of the demolition or development of certain structures and buildings to the state under certain circumstances; prohibiting a local government from penalizing an owner or a developer for taking certain actions taken under this act; providing an effective date.

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

Section 1. Section 553.8991, Florida Statutes, is created to read:

553.8991 Resiliency and Safe Structures Act.—

(1) SHORT TITLE.—This section may be cited as the "Resiliency and Safe Structures Act."

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

(a) "Coastal construction control line" means the boundary established under s. 161.053.

(b) "Law" means any statute, ordinance, rule, regulation, policy, resolution, code enforcement order, agreement, or other governmental act.

(c) "Local government" means a municipality, county, special district, or any other political subdivision of the state.

(d) "Nonconforming structure" means a structure or building that does not conform to the base flood elevation requirements for new construction issued by the National Flood Insurance Program for the applicable flood zone.

(e) "Replacement structure" means a new structure or building built on a property where a structure or building was demolished or will be demolished in accordance with this section.

(3) QUALIFYING STRUCTURES AND BUILDINGS.—

(a) Subject to paragraph (b), this section applies to any structure or building on a property in which all or a portion of such property is seaward of the coastal construction control line and the structure or building is:

1. A nonconforming structure;

2. A structure or building determined to be unsafe by a local building official; or

3. A structure or building ordered to be demolished by a local government that has proper jurisdiction.

(b) This section does not apply to any of the following structures or buildings:

1. A structure or building individually listed in the National Register of Historic Places.

2. A single-family home.

3. A contributing structure or building within a historic district which was listed in the National Register of Historic Places before January 1, 2000.

4. A structure or building located on a barrier island in a municipality with a population of less than 10,000 according to the most recent decennial census and which has at least six city blocks that are not located in zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency.

(4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local

government may not prohibit, restrict, or prevent the demolition of any structure or building identified in paragraph (3)(a) for any reason other than public safety. A local government may only administratively review an application for a demolition permit sought under this section for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not impose additional local land development regulations or public hearings on an applicant for a permit under this section.

(5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A local government shall authorize replacement structures for qualifying buildings identified in paragraph (3)(a) to be developed to the maximum height and overall building size authorized by local development regulations for a similarly situated parcel within the same zoning district. A local government may not do any of the following:

(a) Limit, for any reason, the development potential of replacement structures below the maximum development potential allowed by local development regulations for a similarly situated parcel within the same zoning district.

(b) Require replication of a demolished structure.

(c) Require the preservation of any elements of a demolished structure.

(d) Impose additional regulatory or building requirements

on replacement structures which would not otherwise be applicable to a similarly situated vacant parcel located in the same zoning district.

(e) Impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel within the same zoning district.

(6) DEVELOPMENT APPLICATIONS.—Development applications submitted for replacement structures for qualifying buildings identified in paragraph (3)(a) must be processed in accordance with the process outlined in local land development regulations including any required public hearings in front of the local historic board. However, a local government may not impose additional public hearings or administrative processes that would not otherwise be applicable to a similarly situated vacant parcel within the same zoning district.

(7) APPLICATION AND CONSTRUCTION.—This section applies retroactively to any law adopted contrary to this section or its intent and must be liberally construed to effectuate its intent. This section does not apply to or affect s. 553.79(26).

(8) PREEMPTION.—A local government may not adopt or enforce a law that in any way limits the demolition of a structure identified in paragraph (3)(a) or that limits the development of a replacement structure in violation of subsection (5). A local government may not penalize an owner or a developer of a replacement structure for a demolition pursuant

to this section or otherwise enact laws that defeat the intent of this section. Any local government law contrary to this section is void.

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

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

REGULATORY REFORM AND ECONOMIC DEVELOPMENT SUBCOMMITTEE

HB 1647 by Rep. Roach
Local Regulation of Nonconforming and Unsafe Structures

AMENDMENT SUMMARY
February 1, 2024

Amendment 1 by Rep. Roach (lines 116-119):

- Provides a severability provision.

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 Roach offered the following:

Amendment

Remove lines 116-119 and insert:

(7) SEVERABILITY.— If any provision of this section or its application is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

HB 1659

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1659 Location of Equipment Owned by Amusement Business Owner
SPONSOR(S): Fabricio and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee		Larkin	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Department of Agriculture and Consumer Services regulates public fairs and expositions, and the safety standards required for amusement rides. However, temporary amusement rides and other carnival equipment move from place to place for fairs, carnivals, circuses, festivals, or other events. Although there are state regulations in place for the operation of such equipment, there are not state regulations regarding its' storage.

The bill prevents counties or municipalities from charging amusement business owners to use private agricultural land, with five acres or more, for placing, parking, or storing such equipment when certain circumstances exist.

The bill provides an effective date of July 1, 2024.

The bill does not appear to have a fiscal impact on state government and may have an insignificant indeterminate fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agricultural Lands

Agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.[1] This means that in order to be considered agricultural land the land must be used for a good faith commercial agricultural purpose. Florida law requires the owner to file an application each year requesting such classification with the local property appraiser.

Lands classified as agricultural enjoy certain benefits and protections, such as a preemption of local government restrictions of farming on those lands[2] and limits on nuisance complaints related to farming activities.[3]

Comprehensive Plans and Land Use Regulation

The Growth Management Act requires every city and county to create and implement a comprehensive plan to guide future development. A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

The land use element of the plan designates proposed future general distribution, location, and extent of the uses of land. Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.[4] The housing element of the plan sets forth guidelines and strategies for the creation and preservation of affordable housing for all current and anticipated future residents of the jurisdiction, elimination of substandard housing conditions, provision of adequate sites for future housing, and distribution of housing for a range of incomes and types.[5]

Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection, or sign regulations or any other regulations controlling the development of land.[6]

Zoning

Zoning maps and zoning districts are adopted by a local government for developments within each land use category or sub-category. While land uses are general in nature, one or more zoning districts may apply within each land use designation.[7] Common regulations on buildings within the zoning map districts include density,[8] height and bulk of buildings, setbacks, and parking requirements.[9] Zoning

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[1] S. 193.461, F.S.
[2] S. 163.3162, F.S.
[3] *See* s. 823.14, F.S.
[4] S. 163.3177(6)(a), F.S.
[5] S. 163.3177(6)(f), F.S.
[6] *See* ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.
[7] Indian River County, *General Zoning Questions*, available at https://indianriver.gov/services/community_development/faq.php#collapse1250b1 (last visited Jan. 27, 2024).
[8] "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. *See* s. 163.3164(12), F.S.
[9] *Supra* note 13.

regulations will also include acceptable uses of property for other categories of land, such as agricultural or industrial.

Storage of Carnival Equipment

The Florida Department of Agriculture and Consumer Services regulates public fairs and expositions[10] and the safety standards required for amusement rides.[11] Temporary amusement rides and other carnival equipment move from place to place for fairs, carnivals, circuses, festivals, or other events. Florida law defines an amusement ride and temporary amusement ride:

- An amusement ride is defined as "any building, structure, or mechanical device or combination thereof through which a patron moves, walks, or is carried or conveyed on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its patrons amusement, pleasure, thrills, or excitement."[12]
- A temporary amusement ride is defined as "an amusement ride that is regularly relocated, with or without disassembly."[13]

Although there are state regulations in place for the operation of such equipment, there are not state regulations regarding the storage.

However, a couple of Florida cities have created zoning ordinances regarding the storage of carnival or show business equipment. In Gibsonton, near Tampa in Hillsborough County, there is a special zoning designation, called the Residential Show Business zone, which allows property owners to store "elephants, livestock, circus equipment and trailers in their backyards or front lawns."[14] In Riverview, near Tampa in Hillsborough County, many amusement business owners lived in a subdivision called Tropical Acres and the residents wanted to legally store their equipment, such as, food trucks, gaming booths, and other carnival equipment, as a nonconforming use.[15] Hillsborough County granted an exception to Tropical Acres residents who have been storing their carnival equipment on their properties since 2011 to continue storing such equipment, but new properties in the area are not permitted to do so.[16]

Effect of the Bill

The bill provides that if a county or municipality has a policy, ordinance, or other measure that addresses agricultural lands that are five acres are larger, a county or a municipality cannot have a policy, ordinance, or other measure that requires a monetary exaction[17] from any amusement business owner whose equipment is placed, parked, or stored on the agricultural land for 6 months or longer.

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[10] "Public fair or exposition" means a project, activity, event, or program, and use by a fair association, including, but not limited to, the annual public fair, which serves the purposes specified in s. 616.08 and benefits and develops the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of this state, or any county, municipality, or other community in this state. S. 616.001(12), F.S.
[11] S. 616.242, F.S.
[12] S. 616.242(3)(a), F.S.
[13] S. 616.242(3)(t), F.S.
[14] Stephen Flanagan Jackson, "Gibsonton Residents Want County Action." *The Observer News* (Feb. 21, 2019), www.observernews.net/2019/02/21/gibsonton-resident-want-county-action/ (last visited Jan. 27, 2024).
[15] D'Ann White, "Show Business Zoning Proposed for Tropical Acres." *Patch* (Mar. 1, 2013), https://patch.com/florida/bloomingdale/show-business-zoning-proposed-for-tropical-acres (last visited Jan. 27, 2024).
[16] Chris Taylor, "Carnival Equipment OK to Keep at Tropical Acres Homes" Patch (May 7, 2013), https://patch.com/florida/bloomingdale/carnival-equipment-ok-to-keep-at-tropical-acres-homes (last visited Jan 27, 2024).
[17] The bill does not define money exactions. However, "exactions are payments made by a developer to local governments for the right to proceed with a project. Exactions can include development fees, the dedication of public land, the construction or maintenance of public infrastructure, or the provision of public services." Person, et al., "Who Pays for Development Fees and Exactions?", Public Policy Institute of California (June 22, 2017) www.ppic.org/publication/who-pays-for-development-fees-and-exactions/#:~:text=Exactions%20are%20payments%20made%20by,the%20provision%20of%20public%20services (last visited Jan. 28, 2023). A prohibited exaction is defined in s. 70.45(d), F.S. A money exaction is a broad phrase which may capture fees, taxes, or other conceivable revenue streams for local governments.

Under the bill, the prohibition would only apply if:

- The agricultural land is fully fenced along the perimeter, and
- The equipment that is placed, parked, or stored on the agricultural land is at least 100 feet from the perimeter fencing.

The bill defines the following terms:

- "Agricultural lands" as those parcels classified by the property appraiser as agricultural lands under s.193.46, F.S.
- "Amusement business owner" as a provider of services affiliated with a circus or carnival such as rides, food, beverages, and games who travels around the United States on a seasonal or temporary basis to provide such services to state, district, and county fairs as defined in s. 616.001, F.S. or who supports events sponsored by not-for-profit organizations for fundraising.

As written, the bill prevents counties or municipalities from charging amusement business owners to use agricultural land with five acres or more for placing, parking, or storing their equipment when certain circumstances exist.

B. SECTION DIRECTORY:

Section 1: Creates a prohibition on regulating certain agricultural lands.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments would not be able to charge amusement business owners for storing their equipment on certain agricultural land.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may benefit amusement business owners that live in areas where local governments charge a fee for such storage of equipment on certain agricultural land.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the authority of a county or municipality to raise revenue by charging amusement owners money for storing equipment on agricultural land; however, this may be an insignificant impact due to the amount of agricultural lands that fall into the particular category.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As written, the bill would be placed in Florida Chapter law. The bill may need an amendment to place the language in the Florida Statutes. The bill sponsor plans to file an amendment addressing this issue.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to location of equipment owned by amusement business owner; prohibiting counties and municipalities from enacting certain policies, ordinances, regulations, or other measures that require payment from an amusement business owner for the placement, parking, or storage of equipment for longer than a specified length of time on certain agricultural lands; providing definitions; providing an effective date.

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

Section 1. (1) Notwithstanding any law to the contrary, a county or municipality may not enact any policy, ordinance, regulation, or other measure that addresses agricultural lands 5 acres or larger if such policy, ordinance, regulation, or other measure requires a monetary exaction from any amusement business owner whose equipment is placed, parked, or stored on the agricultural land for 6 months or longer. This prohibition applies only if the agricultural land is fully fenced along the perimeter and the equipment that is placed, parked, or stored on the agricultural land is at least 100 feet from the perimeter fencing.

(2) For purposes of this section, the term:

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

(a) "agricultural lands" means those parcels classified by the property appraiser as agricultural lands under s. 193.461.

(b) "amusement business owner" means a provider of services affiliated with a circus or carnival such as rides, food, beverages, and games who travels around the United States on a seasonal or temporary basis to provide such services to state, district, and county fairs as defined in s. 616.001, or who supports events sponsored by not-for-profit organizations for fundraising.

Section 2. This act shall take effect July 1, 2024.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7045 PCB EEG 24-06 OGSR/Department of the Lottery
SPONSOR(S): Ethics, Elections & Open Government Subcommittee, Porras
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 7008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ethics, Elections & Open Government Subcommittee	15 Y, 0 N	Poreda	Toliver
1) Regulatory Reform & Economic Development Subcommittee		Wright	Anstead
2) State Affairs Committee			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Florida Constitution permits the state to create lotteries, the proceeds from which are required to be deposited in a State Education Lotteries Trust Fund. The Department of the Lottery (department) was established to operate the state lottery with the purpose of maximizing revenues in a manner consonant with the dignity of the state and the welfare of its citizens.

In 2019, the Legislature created public record exemptions for certain information held by the department relating to its operations and processes. Specifically, the following information is protected from disclosure that, if released, could harm the security or integrity of the department:

- Information relating to the security of the department's information technology security.
- Security information or information that would reveal security measures of the department.
- Information about lottery games, tickets, inventory, and promotions for games.
- Information concerning terminals, machines, and devices that issue tickets.

Current law also protects the following department information, regardless of whether the information could harm the security or integrity of the department:

- Information that must be maintained as confidential in order for the department to participate in a multi-state lottery association or game.
- Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors.
- Financial information about an entity that is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity.

In 2022, the Legislature passed CS/HB 7057, which created a general public record exemption — applicable to all agencies — for certain information related to cybersecurity. Pursuant to the OGSR act, the exemption for cybersecurity information will repeal on October 2, 2027, unless reviewed and saved from repeal by the Legislature.

The bill extends the repeal date for the department's information technology security exemption to October 2, 2027, to coincide with the future OGSR repeal date of the general cybersecurity exemption in statute. The bill saves from repeal the remaining public record exemptions under review relating to the department. Each of the exemptions will repeal on October 2, 2024, if this bill does not become law.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR Act)[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote for passage are not required.

Department of the Lottery

The Florida Constitution initially prohibited "[l]otteries, other than the types of pari-mutuel pools authorized by law."[5] However, in 1986, Florida voters approved an amendment to the Florida Constitution that specifically authorizes the state to operate lotteries, the proceeds from which are required to be deposited in a State Education Lotteries Trust Fund.[6] The Legislature, soon thereafter, passed legislation to implement the constitutional provision[7] in order to enable "the people of the state to benefit from significant additional moneys for education" and "to play the best lottery games available."[8]

The Department of the Lottery (department)[9] was established in 1987 to operate the state lottery with the purpose of maximizing revenues in a manner consonant with the dignity of the state and the welfare of its citizens.[10] It was the Legislature's intent that the department be self-supporting, revenue-producing, and function as much as possible as an entrepreneurial business.[11] The department is headed by a secretary appointed by the Governor, subject to the confirmation of the Senate.[12] The department is authorized to adopt rules governing the establishment and operation of the state

[1] Section 119.15, F.S.
[2] Section 119.15(3), F.S.
[3] Section 119.15(6)(b), F.S.
[4] Article I, s. 24(c), FLA. CONST.
[5] Article X, s. 7, FLA. CONST.
[6] Article X, s. 15, FLA. CONST.
[7] Chapter 24, F.S. and Chapter 87-65, L.O.F
[8] *Id.*
[9] Section 24.102, F.S.
[10] Section 24.104, F.S.
[11] Section 24.102(2), F.S.
[12] Section 20.317(1)(a), F.S.

lottery.[13] Florida began offering lottery games in 1988, with a $1 weekly drawing.[14] Since then, the Lottery has grown to include approximately 13,500 retailer locations across the state with lottery tickets ranging from $1 to $50[15] and total ticket sales of $9.325 billion.[16]

Current Public Record Exemptions related to the Department
The name of a winner of a prize valued at $250,000 or more is confidential and exempt[17] from public record requirements for 90- days from the date the prize is claimed, unless the winner consents to the release of his or her name.[18] The department is also required to maintain the confidentiality of the street address and telephone number of a game winner, which are confidential and exempt from public record requirements, unless the winner consents to the release of the information.[19]

The department must disclose any confidential and exempt information to the Auditor General, to the Office of Program Policy Analysis and Government Accountability, or to the lottery's independent auditor upon his or her request.[20] In addition, if the President of the Senate or the Speaker of the House of Representatives certifies that confidential information is necessary for effecting legislative changes, the requested information must be disclosed to him or her, and he or she may disclose such information to members of the Legislature and legislative staff as necessary to affect such purpose.[21]

Current law provides that any person who, with intent to defraud or with intent to provide a financial or other advantage to himself, herself, or another, knowingly and willfully discloses any confidential and exempt information relating to the lottery is guilty of a first-degree felony.[22]

Cybersecurity Public Record Exemption
In 2022, the Legislature passed CS/HB 7057, which created a general public record exemption — applicable to all agencies[23] — for the certain information related to cybersecurity.[24] Specifically, CS/HB 7057, which was codified as s. 119.0725, F.S., protected the following information:

- Information related to critical infrastructure.[25]
- Network schematics, hardware and software configurations, or encryption information or information that identifies detection, investigation, or response practices for suspected or confirmed cybersecurity incidents, including suspected or confirmed breaches, if the disclosure of such information would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of:

[13] Section 24.105(9), F.S.
[14] Florida Lottery, *History*, *available at* https://www.flalottery.com/history (last visited Jan. 15, 2024).
[15] *Id.*
[16] OPPAGA, *Review of the Florida Lottery, 2022*, available at https://oppaga.fl.gov/Documents/Reports/23-02.pdf (last visited Jan. 15, 2024). Ticket sales figure based on Fiscal Year 2021-2022.
[17] There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Rivera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See* Op. Att'y Gen. Fla. 04- 09 (2004).
[18] Section 24.1051(3)(a), F.S. However, the name of a winner must be provided pursuant to s. 24.115, F.S., regarding persons owing child support and s. 409.2577, F.S., regarding the parent locator service to locate parents that have deserted their children.
[19] Section 24.1051(2), F.S.
[20] Section 24.1051(4), F.S.
[21] Section 24.105(12)(c), F.S.
[22] A first-degree felony is punishable by up to thirty years imprisonment and a fine of up to $10,000. Sections 755.082 and 755.083, F.S.
[23] "Agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 119, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. Section 119.011(2), F.S.
[24] *See* s. 119.0725, F.S.
[25] "Critical infrastructure" means existing and proposed information technology and operation technology systems and assets, whether physical and virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety. Section 119.0725(1)(b), F.S.

    - Data or information, whether physical or virtual; or
    - Information technology (I.T.) resources, which include an agency's existing or proposed I.T. systems.
- Coverage limits and deductible or self-insurance amounts of insurance or other risk mitigation coverages acquired for the protection of IT systems, operational technology (OT) systems, or data of an agency.
- Cybersecurity incident information contained in certain reports.

CS/HB 7057 (2022) also created a public meeting exemption for any portion of a meeting that would reveal the confidential and exempt information; however, any portion of an exempt meeting must be recorded and transcribed.[26] The recording and transcript are confidential and exempt from public record requirements.[27]

Pursuant to the OGSR act, the exemption for cybersecurity information will repeal on October 2, 2027, unless reviewed and saved from repeal by the Legislature.

Public Record Exemptions under Review

In 2019, the Legislature created public record exemptions for certain information held by the department related the department's cybersecurity, information technology, information about lottery games, personal identifying information of retailers and vendors for the purposes of background investigations, and certain financial information of vendors. The following information is exempt from public record requirements if release could harm the security or integrity of the department:

- Information relating to the security of the department's technologies, processes, and practices designed to protect networks, computers, data processing software, data, and data systems from attack, damage, or unauthorized access.
- Security information or information that would reveal security measures of the department, whether physical or virtual.
- Information about lottery games, tickets, inventory, and promotions for games, including description, design, production, printing, packaging, shipping, delivery, storage, and validation of such games, promotions, tickets, stock.
- Information concerning terminals, machines, and devices that issue tickets.

Current law also makes the following information exempt, regardless of whether release could harm the security or integrity of the department:

- Information that must be maintained as confidential in order for the department to participate in a multi-state lottery association or game.
- Personal identifying information obtained by the department when processing background investigations of current or potentials retailers or vendors.
- Financial information about an entity that is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity, provided that the entity marks such information as confidential.[28]

The protected information must be released to the Auditor General, the Office of Program Policy Analysis and Government Accountability, and to the lottery's independent auditor, upon his or her request.[29] The information may be released to other governmental entities as needed in connection with performance of their duties.[30]

In 2019, the public necessity statements[31] for the public record exemptions provide the following:[32]

[26] Section 119.0725(3), F.S.
[27] *Id.*
[28] *Id.*
[29] Section 24.1051(4), F.S.
[30] Section 24.1051(1)(c), F.S.
[31] Article I, s. 24(c), FLA. CONST., requires each public record exemption to "state with specificity the public necessity justifying the exemption."
[32] Chapter 2019-41, L.O.F.

I.T. Security Information.

Ensuring the security and integrity of lottery operations safeguards against players gaining an unfair advantage over other players and enables the department to operate in a manner consistent with the dignity of the state lottery. If such security information were made available to the public, the integrity and efficiency of the lottery would be jeopardized and the effective and efficient administration of the lottery would be significantly impaired.

Multistate Game Information

The department is authorized to enter into agreements with other states for the operation and promotion of a multistate lottery and without the exemption, the department would be unable to join certain associations and games, thus causing the state to miss opportunities to generate revenue for education. As a result, the effective and efficient administration of the lottery would be significantly impaired if the confidentiality of these records is not maintained.

Personal Identifying Information relating to Background Investigations

The release of such sensitive personal information could cause great financial harm to an individual and his or her family, cause unwarranted damage to the good name and reputation of such individuals, and increase the risk of identity theft. Without the exemption, current and potential retailers and vendors may be reluctant to participate as a department retailer or vendor, and the effective and efficient administration of the lottery would be significantly impaired.

Confidential Financial Information about Certain Entities

The release of such information could harm the business operations of entities with which the department wishes to contract, injure those entities in the marketplace, and decrease the likelihood that such entities would work with the department. As a result, the effective and efficient administration of the lottery would be significantly impaired without maintaining the confidentiality of such financial information.

Pursuant to the OGSR Act, the exemptions will repeal on October 2, 2024, unless reenacted by the Legislature.

During the 2023 interim, House and Senate committee staff met jointly with staff from the Department of the Lottery to discuss the public records exemption under review. The department staff indicated that they had not had any difficulty interpreting or applying the exemptions and were not aware of any litigation concerning the exemptions. Department staff noted the continued necessity for the exemption and recommended that the exemption be reenacted as is. Committee staff inquired as whether any duplicity existed between the cybersecurity protections in the department's exemption concerning certain IT security information and the general cybersecurity exemption in s. 119.0725, F.S., department staff indicated that while there was likely overlap between the two exemptions, the general cybersecurity exemption would not cover the same categories of information.[33]

Effect of the Bill

The bill extends the repeal date for the department's I.T. security exemption relating to October 2, 2027, to coincide with the future OGSR repeal date of the general cybersecurity exemption in s. 119.0725, F.S. The bill saves from repeal the remaining public record exemptions under review relating

[33] Memorandum from Reginald D. Dixon, Chief of Staff, Department of the Lottery, September 26, 2023, on file with the Ethics, Elections & Open Government Subcommittee.

to the department. Each of the exemptions under review will repeal on October 2, 2024, if this bill does not become law.

B. SECTION DIRECTORY:

Section 1 amends s. 24.1051, F.S., relating to exemptions from inspection or copying of public records.

Section 2 provides an effective date of October 1, 2024.

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:

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 affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require rulemaking nor confer rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 24.1051, F.S.; providing for future legislative review and repeal of an exemption from public record requirements relating to the security of certain technologies, processes, and practices; removing the scheduled repeal of exemptions relating to information about lottery games, personal identifying information of retailers and vendors for purposes of background checks, and certain financial information held by the Department of the Lottery; providing an effective date.

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

Section 1. Subsection (1) of section 24.1051, Florida Statutes, is amended to read:

24.1051 Exemptions from inspection or copying of public records.—

(1)(a) The following information held by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Information that, if released, could harm the security or integrity of the department, including:

a. Information relating to the security of the

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

department's technologies, processes, and practices designed to protect networks, computers, data processing software, data, and data systems from attack, damage, or unauthorized access. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2027, unless reviewed and saved from repeal through reenactment by the Legislature.

b. Security information or information that would reveal security measures of the department, whether physical or virtual.

c. Information about lottery games, promotions, tickets, and ticket stock, including information concerning the description, design, production, printing, packaging, shipping, delivery, storage, and validation of such games, promotions, tickets, and stock.

d. Information concerning terminals, machines, and devices that issue tickets.

2. Information that must be maintained as confidential in order for the department to participate in a multistate lottery association or game.

3. Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors.

4. Financial information about an entity which is not publicly available and is provided to the department in

connection with its review of the financial responsibility of the entity pursuant to s. 24.111 or s. 24.112, provided that the entity marks such information as confidential. However, financial information related to any contract or agreement, or an addendum thereto, with the department, including the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, and penalties, shall be public record.

(b) This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to information held by the department before, on, or after May 14, 2019.

(c) Information made confidential and exempt under this subsection may be released to other governmental entities as needed in connection with the performance of their duties. The receiving governmental entity shall maintain the confidential and exempt status of such information.

~~(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2024.

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