

Industries & Professional Activities Subcommittee

Wednesday, March 12, 2025
1:00 PM – 4:00 PM
Webster Hall (212 Knott)

Daniel Perez
Speaker

Mike Giallombardo
Chair

The Florida House of Representatives

Commerce Committee

Industries & Professional Activities Subcommittee

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Meeting Agenda

Wednesday, March 12, 2025
1:00pm – 4:00pm
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

- HB 299 Elevator Accessibility Requirements by Woodson
- HB 403 Limited Liability Companies by Persons-Mulicka
- HB 429 Motor Vehicle Manufacturers and Franchised Motor Vehicle Dealers by Yeager
- HB 505 Location of Equipment Owned by Amusement Business Owner by Botana
- HB 535 Public Lodging and Public Food Service Establishments by Johnson
- HB 541 Minimum Wage Requirements by Chamberlin
- HB 543 Third-party Reservation Platforms by Oliver
- HB 551 Fire Prevention by Borrero
- HB 641 Food Additives by Tendrich, Gonzalez Pittman
- HB 683 Construction Regulations by Griffitts
- HB 715 Roofing Services by Porras
- HB 729 Veterinary Professional Associates by Melo

V. Closing Remarks

VI. Adjournment

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

HB 299

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 299	**COMPANION BILL:** SB 960 (Bernard)
TITLE: Elevator Accessibility Requirements	**LINKED BILLS:** None
SPONSOR(S): Woodson	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Commerce

SUMMARY

Effect of the Bill:

The bill specifies that only one interior support rail in an elevator must be continuous and at least 42 inches long, instead of requiring all interior support rails in an elevator to meet these requirements.

Fiscal or Economic Impact:

The bill may result in more interior support rails in elevators, which could reduce injuries.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill specifies that only one interior support rail in an elevator must be continuous and at least 42 inches long, instead of requiring all interior support rails in an elevator to meet these requirements. (Section 1)

Interior support rails will still have to meet the other current law requirements regardless if they are 42 inches long and continuous.

The bill provides an effective date of July 1, 2025. (Section 2)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Elevator Regulation

The Elevator Safety Act, located in ch. 399, F.S., establishes the minimum standards for elevator personnel in order "to provide for the safety of life and limb and to promote public safety awareness".[1] The Elevator Safety Act broadly defines the term "elevator" to include:[2]

- Hoisting Mechanical Devices;
- Escalators;
- Dumbwaiters;
- Moving Walks;
- Inclined Stairway Chairlifts; and
- Inclined or Vertical Wheelchair Lifts.

[1] S. 399.001, F.S.
[2] S. 399.01(6), F.S.

The Division of Hotels and Restaurants (Division) within the Department of Business and Professional Regulation has both rulemaking and enforcement authority under ch. 399, F.S. The Division is also responsible for issuing elevator permits and certificates of operation for companies or individuals to install, service or inspect elevators.[3]

The Elevator Safety Act prohibits an elevator from being "erected, constructed, installed or altered" until a permit is issued from DBPR. The Act further requires each elevator to have a certificate of operation from the DBPR before being operated.[4]

Interior Support Rails

The Elevator Safety Act requires every elevator, except elevators in private residences, to have at least one support rail to assist persons with physical handicaps.[5]

Support rails must be continuous and have a minimum length of 42 inches. Support rails must also be:[6]

- Smooth and have no sharp edges;
- Not more than 1.5 inches thick or 2.5 inches in diameter;
- Between 31-33 inches off the ground; and
- 1.5 inches from the elevator's wall.

OTHER RESOURCES:

U.S. Access Board: Guide to the ADA Accessibility Standards

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Brackett
Commerce Committee				

[3] S. 399.10, F.S.
[4] S. 399.03(1) and (5), F.S.
[5] Ss. 399.02, and 399.035, F.S.
[6] S. 399.035, F.S.

A bill to be entitled

An act relating to elevator accessibility requirements; amending s. 399.035, F.S.; requiring elevator car interiors to have at least one support rail that meets certain specifications; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 399.035, Florida Statutes, is amended to read:

399.035 Elevator accessibility requirements for the physically handicapped.—

(1) Each elevator, the installation of which is begun after October 1, 1990, must be made accessible to physically handicapped persons with the following requirements:

(b) Each elevator car interior must have a support rail on at least one wall. All support rails must be smooth and have no sharp edges and must not be more than 1 1/2 inches thick or 2 1/2 inches in diameter. At least one support rail ~~Support rails~~ must be continuous and a minimum length of 42 inches overall. The inside surface of support rails must be 1 1/2 inches clear of the car wall. The distance from the top of the support rail to the finished car floor must be at least 31 inches and not more than 33 inches. Padded or tufted material or decorative

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

materials such as wallpaper, vinyl, cloth, or the like may not be used on support rails.

Section 2. This act shall take effect July 1, 2025.

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

HB 403

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 403	**COMPANION BILL:** SB 316 (Berman)
TITLE: Limited Liability Companies	**LINKED BILLS:** None
SPONSOR(S): Persons-Mulicka	**RELATED BILLS:** None

Committee References

Civil Justice & Claims	➤	Industries & Professional Activities	➤	Judiciary
18 Y, 0 N				

SUMMARY

Effect of the Bill:

HB 403 creates The Uniform Protected Series Provisions in ss. 605.2101-605.2802, F.S., within the Limited Liability Company Act, to allow for the formation of a "protected series LLC" under Florida law. The bill also recognizes the structure of existing foreign protected series LLCs wishing to do business in Florida.

Fiscal or Economic Impact:

The bill will have an indeterminate fiscal impact on state government and an indeterminate economic impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill creates The Uniform Protected Series Provisions in ss. 605.2101-605.2802, F.S., within the Limited Liability Company ("LLC") Act, to allow for the formation of a unique form of Limited Liability Company – that is, a protected series LLC ("series LLC") – under Florida law. (Section 5) These provisions also recognize the structure of existing foreign series LLCs wishing to do business in Florida. Practically speaking, this may encourage a business wishing to organize as a protected series LLC to organize under Florida law, and may encourage existing foreign series LLCs to bring their business to the state.

Series LLC Formation

The bill defines "series LLC" to mean a domestic LLC with at least one protected series established under s. 605.2201, F.S. (Section 6) The bill also specifies that the provisions of the LLC Act applicable to the formation of an LLC generally also apply to the formation of a series LLC or protected series, except as otherwise provided, and establishes provisions specific to the formation of a series LLC or protected series. (Section 12)

Designation of Protected Series

The bill creates s. 605.2201, F.S., to provide that, with the affirmative vote or consent of all members of an LLC, the LLC may establish a protected series. To establish a protected series after such a vote, the bill requires an LLC to deliver to the Department of State ("DOS") for filing a protected series designation, signed by the LLC, stating the names of the LLC and of the protected series to be established, and any other information DOS requires for filing.

Under the bill, a protected series is established when the protected series designation takes effect. To amend such a designation, a series LLC must deliver to DOS for filing a statement of designation change, signed by the company, that sets forth:

- The names of the series LLC and of the protected series to which the designation applies;

- Each change to the protected series designation; and
- A statement that the change was approved by the affirmative vote or consent of the members of the series LLC required to make the designated change.

The amendment takes effect when the statement of designation change takes effect. (Section 13)

Protected Series Name

The bill creates s. 605.2202, F.S., to specify that a protected series' name generally must meet the statutory requirements for LLC names. However, under the bill, a protected series' name must also:
- Begin with the series LLC's name, including any word or abbreviation required by the LLC Act; and
- Contain the phrase "protected series" or the abbreviation "P.S." or "PS."

If a series LLC changes its name, the LLC must deliver to DOS for filing a statement of designation change for each of the LLC's protected series, changing the name of each such series to comply with this section. (Section 14)

Nature of a Protected Series

The bill creates s. 605.2103, F.S. to provide that a protected series is a person[1] distinct from all of the following:
- The series LLC, generally.
- Another protected series of the series LLC.
- A member of the series LLC, regardless of whether the member is an associated member[2] of the protected series.
- A protected-series transferee[3] of a protected series of the series LLC.
- A transferee of a transferrable interest[4] of the series LLC. (Section 7)

Powers and Duties of a Protected Series

The bill creates s. 605.2104, F.S., to provide that a protected series:
- Can sue and be sued in its own name.
- Generally has the same powers and purposes as the series LLC.
- Ceases to exist not later than when the series LLC completes its winding up.
- May not:
  - Be a member of the series LLC;
  - Establish a protected series; or
  - Except as otherwise authorized by Florida law, have a purpose or power, or take an action, that Florida law prohibits an LLC from having or taking. (Section 8)

Liability Limitations

The bill recognizes both the traditional, vertical liability shield of an LLC and the new, horizontal liability shield of a series LLC, and establishes the limitations of such shields as applied to a series LLC.

[1] "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, LLC, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or another legal or commercial entity. The definition also includes a protected series and a foreign protected series. (Section 6)
[2] An "associated member" is a series LLC member that meets statutory requirements and is associated with a protected series. (Section 6)
[3] "Protected-series transferee" means a person to which all or part of a protected-series transferable interest of a protected series has been transferred, other than the series LLC company, and includes a person that owns a protected-series transferable interest as a result of ceasing to be an associated member of a protected series. (Section 6)
[4] "Protected series transferrable interest" means the right, as initially owned by a person in the person's capacity as an associated member, to receive distributions form a protected series, regardless of whether the person remains a member or continues to own any part of the right. The term also includes a fraction of an interest. (Section 6)

Liability Shield

The bill creates s. 605.2401, F.S., to provide that the following concepts generally apply:

- A series LLC's debt, obligation, or other liability is solely the debt, obligation, or liability of the series LLC.
- A protected series' debt, obligation, or other liability is solely the debt, obligation, or liability of the protected series.
- A series LLC is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of its protected series solely by reason of the protected series being a protected series of the series LLC, or the series LLC:
    - Being or acting as a protected-series manager of the protected series;
    - Having the protected series manage the series LLC; or
    - Owning a protected-series transferrable interest of the protected series.
- A protected series is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the series LLC or another protected series of the series LLC, solely by reason of:
    - Being a protected series of the series LLC;
    - Being or acting as a manager of the series LLC or a protected-series manager of another protected series of the company; or
    - Having the series LLC or another protected series of the company be or act as a protected-series manager of the protected series.

Further, the bill specifies that a person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of:

- A protected series of a series LLC solely by reason of being or acting as:
    - An associated member, protected-series manager, or protected-series transferee of the protected series; or
    - A member, manager, or a transferee of the series LLC.
- A series LLC solely by reason of being or acting as an associated member, protected-series manger, or protected-series transferee of a protected series of the such LLC. (Section 24)

Claim Seeking to Disregard Liability Limitation

The bill creates s. 605.2402, F.S., to provide that a claim seeking to disregard a liability limitation pertaining to a series LLC, a protected series, or persons connected thereto, including a principal providing a right to a creditor or holding a person liable for a debt, obligation, or other liability of another person, is governed by the principles of law and equity which would apply if each protected series were an LLC formed separately from the series LLC and distinct from the series LLC and any other protected series of such LLC. The bill also specifies that:

- Failure of an LLC or a protected series to observe the formalities of its activities and affairs is not grounds to disregard a limitation in s. 605.2401(1), F.S., relating to the liability of persons acting in specified roles, but may be grounds to disregard a limitation in s. 605.2401(2), F.S., relating to the liability of a protected series or series LLC.
- This section applies to a claim seeking to disregard a liability limitation applicable to a foreign series LLC[5] or a foreign protected series[6] and comparable to a limitation stated in s. 605.2401, F.S., if:
    - The claimant is a Florida resident, transacting business in Florida, or authorized to transact business in Florida; or
    - The claim is to establish or enforce a liability arising under Florida law other than the LLC Act or from an act or omission in Florida. (Section 25)

[5] A "foreign series LLC" is a foreign LLC that has at least one foreign series or protected series. (Section 6)
[6] A "foreign protected series" is a series, protected series, protected cell, segregated account, or similar part of a foreign LLC, however the part is denominate, which is established under law that limits, or limits if conditions specified under law are satisfied, the liability of the part to a creditor of the foreign company or of another part of the structure, regardless of whether the law uses the term "protected series." (Section 6)

Remedies of Certain Judgment Creditors

The bill creates s. 605.2403, F.S., to specify that the provisions of s. 605.0503, F.S., which provide or restrict remedies available to a judgment creditor[7] of a member or transferee of an LLC, apply to a judgment creditor of:

- An associated member or other holder of a protected series transferable interest in a protected series of a series LLC or foreign series LLC; and
- A series LLC, to the extent the LLC owns a protected-series transferable interest of a protected series. (Section 26)

Enforcement of Claim Against Non-Associated Assets

The bill creates s. 605.2404, F.S., to specify that, if a claim against a series LLC or a protected series of the LLC has been reduced to judgment, in addition to any other remedy provided by law or equity, the judgment may be enforced in accordance with the following:

- A judgment against a series LLC may be enforced against an asset[8] of a protected series of the LLC if the asset:
  - Was a non-associated asset[9] of the protected series on the incurrence date;[10] or
  - Is a non-associated asset of the protected series on the enforcement date.[11]
- A judgment against a protected series may be enforced against the series LLC if the asset:
  - Was a non-associated asset of the series LLC on the incurrence date; or
  - Is a non-associated asset of the series LLC on the enforcement date.
- A judgment against a protected series may be enforced against an asset of another protected series of the series LLC if the asset:
  - Was a non-associated asset of the other protected series on the incurrence date; or
  - Is a non-associated asset of the other protected series on the enforcement date.

Further, under the bill:

- If a claim against a series LLC or a protected series has not been reduced to a judgment, and a law other than the LLC Act authorizes a prejudgment remedy by attachment,[12] levy,[13] or the like, the court may apply the foregoing as a prejudgment remedy.
- The party asserting that an asset is or was an associated asset of a series LLC or a protected series has the burden of proof on the issue.
- Newly-created s. 605.2404, F.S., applies to an asset of a foreign series LLC or foreign protected series under specified circumstances, including that the asset is real or tangible property located in Florida. (Section 27)

Protected Series LLC Operations and Governance

The bill specifies that the provisions of the LLC Act applicable to LLCs in general, and their members and managers, including, but not limited to, provisions relating to LLC operation, existence, and management; court proceedings;

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[7] A "judgment creditor" is a person with the right to demand the payment of monetary damages awarded as part of a judgment rendered in a civil action. Legal Information Institute, *Judgment Creditor*, https://www.law.cornell.edu/wex/judgment_creditor (last visited Mar. 5, 2025).
[8] "Asset" means property: (a) in which a series LLC or a protected series has rights; or (b) as to which the series LLC or protected series has the power to transfer rights. (Section 6)
[9] A "non-associated asset" means: (a) an asset of a series LLC which is not an associated asset of such LLC; or (b) an asset of a protected series which is not an associated asset of the protected series. (Section 6) "Associated asset," meanwhile, means an asset that meets the requirements of s. 605.2301, F.S. In other words, associated assets have only one owner (that is, either the series LLC or the protected series), while non-associated assets are available to the creditors of both the series LLC and the protected series. (Section 6)
[10] "Incurrence date" means the date on which a series LLC or protected series incurred the liability giving rise to a claim that a claimant seeks to enforce under s. 605.2404, F.S. (Section 27)
[11] "Enforcement date" means 12:01 a.m. on the date on which a claimant first serves process on a series LLC or protected series in an action seeking to enforce a claim against an asset of the LLC or protected series by attachment, levy, or the like under s. 605.2404, F.S. (Section 27)
[12] An "attachment" is a court order directing the freezing or seizure of specific assets belonging to a debtor, pending the outcome of a civil matter involving a creditor who may obtain a judgment in his or her favor that could be satisfied by the sale or application of the assets. Legal Information Institute, *Attachment*, https://www.law.cornell.edu/wex/attachment (last visited Mar. 5, 2025).
[13] A "levy" is the court-ordered seizure and sale of property to satisfy a delinquent debt or judgment. Legal Information Institute, *Levy*, https://www.law.cornell.edu/wex/levy (last visited Mar. 3, 2025).

and filings with DOS and other state or local government agencies, generally apply to each series LLC and to each protected series established under s. 605.2201, F.S. (Section 12) The bill also creates provisions of the LLC Act applicable only to the operation and governance of a series LLC and a protected series.

Protected Series Governing Law

The bill creates ss. 605.2105 to provide that Florida law governs:

- The internal affairs of a protected series.
- The relations between a protected series and specified parties, including the series LLC and another protected series of such LLC.
- The liability of a person for a debt, obligation, or other liability of a protected series arising under specified circumstances.
- The liability of a series LLC for a debt, obligation, or other liability of its protected series arising under specified circumstances.
- The liability of a protected series for a debt, obligation, or other liability of the series LLC arising under specified circumstances. (Sections 9)

Similarly, the bill creates s. 605.2701, F.S., to provide that, where the series LLC is a foreign protected series, such matters are generally governed by the law of the foreign protected series' jurisdiction of formation. (Section 39)

Operating Agreements

The bill creates s. 605.2106, F.S., to provide that a series LLC's operating agreement generally governs the internal affairs of a protected series and relations between a protected series and specified parties. The bill also specifies:

- How such matters are determined if the operating agreement of a series LLC does not provide for such matters in an authorized manner.
- How certain restrictions on operating agreements imposed by the LLC Act or other laws apply. (Section 10)

Further, the bill creates s. 605.2107, F.S., to provide that an operating agreement for a series LLC may not vary the effect of specified provisions of law created by the bill, except to the extent otherwise specified therein. Under the bill, an operating agreement may not unreasonably restrict the duties and rights of a person who is not an associated member of a protected series to information concerning the protected series, but may impose reasonable restrictions on the availability and use of such information, and may provide appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on such use. (Section 11)

Registered Agent

The bill creates s. 605.2203, F.S., to provide that the registered agent in Florida for a series LLC is the registered agent in Florida for each protected series of that LLC, but a series LLC must agree with a registered agent that the agent will serve as the registered agent in Florida for the LLC and for each protected series of the LLC before delivering a protected series designation to DOS for filing. Further, under the bill, a person that ceases to be the registered agent for a:

- Series LLC ceases to be the registered agent for each protected series of such LLC.
- Protected series, other than as a result of the termination of the protected series, ceases to be the registered agent of the series LLC and any other protected series of such LLC.

Finally, the bill provides that, except as otherwise agreed upon by a series LLC and its registered agent, the registered agent is not obligated to distinguish between a process, notice, demand, or other record concerning the series LLC and a process, notice, demand, or other record concerning a protected series of the series LLC. (Section 15)

Service of Process, Notice, Demand, or Other Record

The bill creates s. 605.2204, F.S., to provide that process against a series LLC, a protected series, a registered foreign series LLC, or a registered foreign protected series may be serviced in the same manner as service is made

on such entity under s. 48.062 and chapters 48 or 49, F.S. Under the bill, any notice or demand on a series LLC or protected series may be given or made to any member of a member-managed series LLC or to any manager of a manager-managed LLC; to the registered agent of a series LLC at the registered office of the series LLC in Florida; or to any other address in Florida which is the principal Florida office of the series LLC. Similarly, any notice or demand on a registered foreign series LLC or a registered foreign protected series may be given or made to any member of a member-managed foreign series LLC or to any manager of a manager-managed foreign series LLC; the registered agent of the registered foreign series LLC at the registered office of the foreign series LLC; or to the principal office address, or any other Florida address, which is the principal Florida office of the registered foreign series LLC. However, the bill does not affect the right to serve process on, give notice to, or make a demand on a series LLC or a protected series thereof, or on a foreign series LLC or a protected series thereof, in any other manner provided by law. (Section 16)

The bill also amends s. 48.062, F.S., to define "registered foreign protected series of a foreign series LLC" and "registered foreign series LLC" and to provide that:

- Service on a series LLC is notice to each protected series thereof.
- Service on a protected series is notice to the series LLC thereof.
- Service on a registered foreign series LLC is notice to each protected series thereof.
- Service on a registered foreign protected series is notice to each registered foreign series LLC thereof. (Section 1)

Foreign Series LLCs and Foreign Protected Series

The bill creates s. 605.2703, F.S., to require that an application by a foreign protected series for a certificate of authority to do business in Florida must include specified information, including the name and governing jurisdiction of the foreign series LLC and the foreign protected series seeking the certificate and, if the foreign series LLC has other foreign protected series, the name, title, capacity, and street and mailing address of at least one person who has the authority to manage the foreign series LLC and who knows specified information about the protected series. The bill also specifies which provisions of the LLC Act apply to the application for a certificate of authority by a foreign series LLC, which provisions include the naming requirements and provisions relating to required information. (Section 41)

Further, the bill creates s. 605.2702, F.S., to provide that, in determining whether a foreign series LLC or foreign protected series is transacting business in Florida or is subject to the personal jurisdiction of Florida courts, the activities and affairs of the:

- Foreign series LLC are not attributable to a foreign protected series of such LLC solely by reason of the foreign protected series being a foreign protected series of the LLC.
- Foreign protected series are not attributable to a foreign series LLC or another foreign protected series of the LLC solely by reason of the foreign protected series being a foreign protected series of the foreign series LLC. (Section 40)

Finally, the bill creates s. 605.2704, F.S., to provide that, not later than 30 days after becoming a party to a proceeding before a civil, administrative, or other adjudicative tribunal of or located in Florida, or a tribunal of the United States located in Florida:[14]

- A foreign series LLC must disclose to each other party the name and street and mailing address of:
  - Each of its foreign protected series; and
  - Each foreign protected series manager of and a registered agent for service of process for each foreign protected series.
- A foreign protected series must disclose to each other party the name and street and mailing address of:
  - The foreign series LLC;
  - An agent for service of process for the foreign series LLC;
  - Any other foreign protected series of the foreign series LLC; and

[14] The disclosure requirements are tolled under the bill if a foreign series LLC or foreign protected series challenges the personal jurisdiction of the tribunal, until the tribunal determines whether it has personal jurisdiction.

- Each foreign protected-series manager of and an agent for service of process for the other foreign protected series.

Under the bill, where a foreign series LLC or foreign protected series does not comply with the disclosure requirements under s. 605.2704, F.S., a party to the proceeding may ask the tribunal to treat the noncompliance as a failure to comply with the tribunal's discovery rules or bring a separate proceeding to the court to enforce compliance. (Section 42)

Issuance of Certificate of Status or Authority

The bill creates s. 605.2205, F.S., to provide that, upon the satisfaction of specified requirements, DOS must issue a certificate of status for a protected series, or a certificate of authority for a foreign protected series, if:

- In the case of a protected series, the records show that DOS has accepted and filed articles of organization for the series LLC and a protected series designation for the protected series.
- In the case of a foreign protected series, the records show that DOS has filed a certificate of authority for the foreign series LLC and a certificate of authority for the foreign protected series.

A certificate issued under this section must contain specified information, including:

- In the case of a protected series, the name of the protected series, the series LLC's name, the date the protected series designation took effect, and other information.
- In the case of a foreign protected series, the foreign protected series' name, the foreign series LLC's name, the fact that the foreign series LLC is authorized to do business in Florida, and other information.

Under the bill, the certificate may be relied on as conclusive evidence of the facts stated therein, subject to any qualifications stated by DOS in the certificate. (Section 17)

Annual Report Information

The bill creates s. 605.2206, F.S., to require that, in its annual report, a series LLC must include the name of each its protected series:

- For which the series LLC has previously delivered to DOS for filing a protected series designation; and
- Which has not dissolved and completed winding up.

Under the bill, a series LLC's failure to comply with this requirement with regard to a protected series prevents issuance of a certificate of status pertaining to the protected series, but does not otherwise affect the protected series.

Similarly, the bill requires that, in its annual report, a registered foreign series LLC include the name of each registered foreign protected series of the registered foreign series LLC:

- For which the registered foreign series LLC has previously delivered to DOS for filing an application for a certificate of authority to do business in Florida, which DOS has accepted; and
- Which has not withdrawn is certificate of authority.

Under the bill, the failure of a registered foreign series LLC to comply with this requirement with regard to a registered foreign protected series prevents issuance of a certificate of status pertaining to the foreign protected series. (Section 18)

Associated Assets

The bill creates s. 605.2301, F.S., to provide that only an asset of a protected series may be an associated asset of the protected series, while only an asset of a series LLC may be an associated asset of the series LLC. Further, the bill specifies that an asset of a protected series is an associated asset of the protected series, and an asset of a series LLC is an associated asset of the series LLC, only if the protected series or series LLC creates and maintains specified records that state the name of the protected series or series LLC and describe the asset with sufficient

specificity to permit a disinterested, reasonable individual to make specified determinations about the asset. Such records may be organized by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any asset, or in any other reasonable manner.

Further, under the bill, a series LLC or protected series may, to the extent authorized by law, hold an associated asset directly or indirectly, except that:

- A protected series may not hold an associated asset in the name of the series LLC or another protected series of such LLC; and
- The series LLC may not hold an associated asset in the name of its protected series.

The bill also provides for the effect of a deed or other instrument granting an interest in real property to or from a series LLC or one or more protected series of a series LLC, or any other instrument otherwise affecting an interest in real property held by such entity, in each case to the extent such deed or other instrument is recorded in the office for recording transfers or other matters affecting real property and specified records are maintained. (Section 19)

Associated Member

The bill creates s. 605.2302, F.S., to specify that only a member of a series LLC may be an associated member of a protected series of such LLC. Under the bill, a member of a series LLC becomes an associated member of a protected series of such LLC if the operating agreement or a procedure established therein states:

- That the member is an associated member of the protected series;
- The date on which the member became an associated member of the protected series; and
- Any protected-series transferable interest the associated member has in connection with becoming or being an associated member of the protected series.

Further, the bill specifies:

- That if a person that is an associated member of a protected series is dissociated from the series LLC, the person ceases to be an associated member of the protected series.
- The rights of an associated member of a protected series to vote on or consent to an amendment to the series LLC's operating agreement or any other matter being decided by the members or to maintain a derivative action to enforce a right of the LLC.
- That an associated member of a protected series is an agent of the protected series with certain powers to bind the protected series. (Section 20)

Protected-Series Transferrable Interest

The bill creates s. 605.2303, F.S., to provide that a protected-series transferrable interest of a protected series must be owned initially by an associated member of the protected series or the series LLC. Under the bill, if a protected series has no associated members when established, the series LLC owns the protected-series transferable interests in the protected series. A series LLC may also acquire a protected-series transferable interest through a transfer from another person or as provided in the operating agreement.

Further, except as otherwise specified, a provision of the:

- LLC Act which applies to a protected-series transferee of a protected series applies to the series LLC in its capacity as an owner of a protected-series transferable interest of the protected series.
- Operating agreement of a series LLC which applies to a protected-series transferee of a protected series applies to the series LLC in its capacity as an owner of a protected-series transferrable interest of the protected series. (Section 21)

Management

The bill creates s. 605.2304, F.S., to specify that a protected series may have more than one protected-series manager and, if a protected series has no associated members, the series LLC is the protected-series manager. The bill also provides for the determination of any duties of a protected-series manager to:

- The protected series;
- Any associated member of the protected series; and
- Any protected-series transferee of the protected series.

However, the bill provides that, solely by reason of being or acting as a protected-series manager, a person owes no duty to:

- The series LLC;
- Another protected series of the series LLC; or
- Another person in that person's capacity as:
  - A member of the series LLC which is not an associated member of the protected series;
  - A protected-series transferee or protected-series manager of another protected series; or
  - A transferee of the series LLC. (Section 22)

Right of Non-Associated Members to Specified Information

The bill creates s. 605.2305, F.S., to specify the rights to information concerning the protected series of a member of a series LLC which is not an associated member of a protected series of such LLC; a person who was formerly an associated member of a protected series; the legal representative of a deceased associated member of a protected series; and a protected-series manager of a protected series. Such rights generally correspond to the current rights of the counterparts of such persons under the LLC Act. The bill also provides that the court-ordered inspection provisions of s. 605.0411, F.S.,[15] apply to such information rights. (Section 23)

Entity Transactions

The bill provides for the role of, and in some instance prohibits the participation of, a series LLC or a protected series in certain entity transactions, including conversions,[16] domestications,[17] interest exchanges,[18] and mergers.[19]

Entity Transaction Restrictions

The bill creates ss. 605.2602 and 605.2603, F.S., to provide that a protected series and a series LLC, respectively, may not generally participate in, be a party to, result from, or be formed, organized, established, or created by:

- A conversion, domestication, or an interest exchange under the LLC Act or the law of a foreign jurisdiction; or
- A transaction with the same substantive effect as a conversion, domestication, or interest exchange.

The bill also specifies that a:

- Protected series may not be a party to, be formed, organized, established, or created in, or result from a merger under the LLC Act or the law of a foreign jurisdiction or a transaction with the same substantive effect as a merger under Florida law or the law of a foreign jurisdiction.

[15] S. 605.0411, F.S., applies if an LLC does not allow a member, manager, or other person who complies with applicable law to inspect and copy any records required to be available for inspection. Under this section, the circuit court may summarily order inspection and copying of the records demanded under specified circumstances, and may order the LLC to pay the costs, including reasonable attorney fees, incurred by the member, manager, or other person seeking the records to obtain the order and enforce its rights.
[16] A "conversion" is a transaction authorized under ss. 605.1041-605.1046, F.S.
[17] A "domestication" is a transaction authorized under ss. 605.1051-605.1056, F.S.
[18] An "interest exchange" is a transaction authorized under ss. 605.1031-605.1036, F.S.
[19] A "merger" is a transaction authorized under ss. 605.1021-605.1026, F.S.

- Series LLC may not, except as otherwise provided by law, be a party to or the surviving company[20] of a merger under the LLC Act or the law of a foreign jurisdiction or a transaction with the same substantive effect as a merger under Florida law or the law of a foreign jurisdiction. (Sections 32 and 33)

Mergers Authorized

The bill creates s. 605.2604, F.S., to authorize a series LLC to be party to a merger only if:
- Each other party to the merger is an LLC; and
- The surviving company is not created in the merger. (Section 34)

The bill also creates s. 605.2605, F.S., to require that the plan of merger:
- Comply with the requirements for the contents of a plan of merger for an LLC; and
- State specified information in a record, which information depends on whether the protected series is a protected series of a non-surviving company,[21] a protected series of a surviving company, a relocated protected series,[22] a continuing protected series,[23] or a protected series to be established by the surviving company. (Section 35)

Further, the bill creates s. 605.2606, F.S., to require that the articles of merger:
- Comply with the requirements for the articles of merger for an LLC;[24] and
- Include specified attachments, including, as appropriate, a signed statement of designation cancellation and termination; a signed statement of relocation and a statement of protected series designation; or a signed protected series designation. (Section 36)

Effect of Merger

The bill creates s. 605.2607. F.S., to establish the effects of a merger which occur in addition to the effects stated in s. 605.1026, F.S., relating to the merger of an LLC. Under this section:
- As provided in the plan of merger, each protected series of each merging series LLC which was established before the merger is a relocated or continuing protected series or is dissolved, wound up, and terminated.
- Any protected series to be established due to the merger is established.
- Any relocated or continuing protected series is the same person it was before the merger.
- All property of a relocated or continuing protected series continues to be vested in such protected series.
- All debts, obligations, and other liabilities of a relocated or continuing protected series continue as debts, obligations, and other liabilities of such protected series.
- Except as otherwise provided by law or the plan of merger, all rights, privileges, immunities, powers, and purposes of a relocated or continuing protected series remain in such protected series.
- The new name of a relocated protected series may be substituted for its former name in any pending action or proceeding.
- To the extent provided in the plan of merger:
  - A person becomes an associated member or a protected-series transferee or a relocated protected series or continuing protected series.
  - A person becomes an associated member of a protected series established by the surviving company due to the merger.
  - Any change in a person's rights or obligations in the person's capacity as an associated member or a protected series or continuing protected series takes effect.

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[20] "Surviving company" means a merging company that continues in existence after a merger. (Section 31)
[21] "Non-surviving company" means a merging company that does not continue in existence after a merger. (Section 31)
[22] "Relocated protected series" means a protected series of a non-surviving company which, after a merger, continues in uninterrupted existence as a protected series of the surviving company. (Section 31)
[23] "Continuing protected series" means a protected series of a surviving series LLC which continues in uninterrupted existence after a merger. (Section 31)
[24] Under s. 605.1025, F.S., after a plan of merger is approved, articles of merger must be signed by each merging entity and delivered to DOS for filing. The articles must also contain specified information, including the merger's effective date and the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity and of each entity that is the surviving entity.

- Any consideration to be paid to a person that before the merger was an associated member or a protected-series transferee of a relocated protected series or continuing protected series is due.
- Any person that is an associated member of a relocated protected series becomes a member of the surviving company, if not already a member. (Section 37)

The bill also creates s. 605.2608, F.S., to specify how creditors' rights existing under s. 605.2404, F.S., before a merger may be enforced. (Section 38)

Protected Series Dissolution and Reinstatement

The bill establishes the methods by which a protected series may be voluntarily or is automatically dissolved under the LLC Act.

Events Causing Protected Series Dissolution

The bill creates s. 605.2501, F.S., to provide that a protected series is dissolved, and its activities and affairs must be wound up, upon the occurrence of specified events, including:
- Dissolution of the series LLC;
- Occurrence of an event which the operating agreement states causes dissolution;
- Affirmative vote or consent of all members of the protected series;
- Entry of a court order dissolving the protected series under specified circumstances;
- Automatic or involuntary dissolution of the series LLC that established the protected series; and
- The filing of a statement of administrative dissolution[25] by DOS. (Section 28)

Winding Up Dissolved Protected Series

The bill creates s. 605.2502, F.S., to provide the manner in which a dissolved protected series must wind up its activities and affairs, including by filing with DOS articles of protected series dissolution and a statement of designation cancellation, and the extent to which judicial supervision or another judicial remedy is available in such a winding up. Further, the bill specifies that a series LLC does not complete its winding up until each of its protected series has completed its winding up. (Section 29)

Effect of Reinstatement or Voluntary Dismissal Revocation

The bill creates s. 605.2503, F.S., to provide that, if a series LLC that has been administratively dissolved is reinstated, or a series LLC that voluntarily dissolved revokes its articles of dissolution, before filing a statement of termination:
- Each protected series of the series LLC ceases winding up; and
- The provisions of s. 605.0708, F.S., relating to revocation of articles of dissolution, apply to the series LLC and to each protected series as specified in law. (Section 30)

Application

The bill creates s. 605.2801, F.S., to provide that s. 605.1102, F.S., relating to the applicability of the Electronic Signatures in Global and National Commerce Act, applies to the Uniform Protected Series Provisions. (Section 43)

The bill also creates s. 605.2802, F.S., to provide that:
- Beginning July 1, 2026, Chapter 605, F.S., governs all domestic and foreign series LLCs, all domestic protected series, and all foreign series that do business in Florida.
- A domestic LLC formed before January 1, 2026, may not create or designate any protected series before the bill's effective date. (Section 44)

[25] Administrative dissolution is governed by s. 605.0714, F.S.

Effective Date

The bill provides an effective date of January 1, 2026. (Section 45)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate fiscal impact on DOS, as it may attract foreign series LLCs, and newly-forming businesses wishing to organize as a series LLC, to register and organize under Florida law, which, in turn, may increase the workload of DOS. To the extent that DOS can absorb any such increase within existing resources, the bill will have an insignificant fiscal impact on DOS.

PRIVATE SECTOR:

The bill will affect how business entities, both foreign and domestic, may organize or register and do business in the state, which will have an indeterminate economic impact on such entities. To the extent that a business entity obtains a financial benefit from organizing or registering as a series LLC under Florida law, the economic impact may be positive.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Limited Liability Companies

A limited liability company ("LLC") is a type of business entity recognized by and regulated under ch. 605, F.S., the Limited Liability Company Act ("LLC Act"). Benefits to forming a business as an LLC include a flexible tax structure[26] and a "vertical liability shield," which limits the personal liability of the LLC's members[27] and managers[28] for company obligations.[29] In other words, the liability shield means that the LLC's creditors can only go after the assets belonging to the LLC; they cannot go after the personal assets of the members and managers.

Forming a Florida LCC

To form an LLC in Florida, the authorized representatives[30] must first choose a name, which name must be distinguishable from the names of all other business entity names in the records of the Department of State ("DOS") and include the words "limited liability company" or the abbreviation "LLC" or "L.L.C."[31] The authorized representatives must also designate a registered agent to accept legal notices and service of process on behalf of the LLC at a registered office located in Florida.[32]

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[26] Depending on elections made by an LLC's members, the IRS will treat an LLC as either a corporation, a partnership, or a disregarded entity. This last option allows for what is known as "pass-through taxation," in which the LLC's members claim the LLC's profits or losses as part of their personal taxes, alleviating the LLC of needing to file its own tax return and preventing the profits and losses from being taxed twice. IRS, *Limited Liability Company (LLC)*, https://www.irs.gov/businesses/small-businesses-self-employed/limited-liability-company-llc (last visited Mar. 5, 2025).

[27] "Member" means a person who: (a) is a member of an LLC under s. 605.0401, F.S., or was a member in a company when the company became subject to the Act; and (b) has not dissociated from the LLC under s. 605.0602, F.S. S. 605.0102(40), F.S.

[28] "Manager" means a person who, under the operating agreement of a manager-managed LLC, is responsible, alone or in concert with others, for performing the management functions stated in ss. 605.0407(3) and 605.04073(2), F.S.

[29] Exceptions to the liability shield include a member's or manager's written consent to be liable for an obligation; a statutory claw-back provision for improper distributions; provisions in agreements signed before the LLC's organization; a member's or manager's tortious conduct; a member's or manager's action or inaction that results in a violation of criminal law or improper personal gain; liability arising under federal tax laws of the Florida sales and use tax laws; and a violation of fiduciary duties to creditors. S. 605.0304, F.S. Daniel S. Kleinberger, *Limited Liability Limited* (Aug. 28, 2019), https://www.americanbar.org/groups/business_law/publications/blt/2019/09/limited-liability/ (last visited Mar. 5, 2025).

[30] One or more persons may act as authorized representatives to form an LLC. S. 605.0201, F.S.

[31] S. 605.0112, F.S.

[32] The registered agent must be an individual who resides in Florida and whose business address is identical to the address of the registered office; another domestic entity that is an authorized entity and whose business address is identical to the address of the registered office; or

Once these steps are completed, the authorized representatives must sign and deliver to DOS for filing articles of organization stating the LLC's name; the street and mailing addresses of the LLC's principal office; and the name, street address in Florida, and written acceptance of the LLC's registered agent.[33] An LLC is formed when the LLC's articles of organization become effective[34] and when at least one person becomes a member at the time the articles of organization become effective.[35]
Once formed, the members of the LLC may establish an operating agreement to lay the groundwork for the company, which agreement governs the:

- Relations among the members as members and between the members and the LLC;
- Rights and duties of a person serving in the capacity of manager;
- LLC's activities and affairs; and
- Means and conditions for amending the operating agreement.[36]

An LLC must also deliver to DOS for filing an annual report stating:

- The LLC's name;
- The LLC's principal office and mailing addresses;
- The date of the LLC's organization;
- The LLC's federal employer identification number[37] or, if none exists, whether one has been applied for;
- The name, title or capacity, and address of at least one person with the authority to manage the LLC; and
- Any additional information that is necessary or appropriate to enable DOS to carry out the LCC Act.[38]

Foreign LLCs Doing Business in Florida

An entity organized as an LLC under the laws of another jurisdiction (a "foreign LLC") that wishes to do business in Florida must, through an authorized representative, first apply for a certificate of authority to transact business in Florida by delivering an application for such a certificate to DOS, which application must contain:

- The foreign LLC's name;
- The name of the foreign LLC's jurisdiction of formation;
- The foreign LLC's principal office and mailing addresses;
- The name and street address in Florida of, and the written acceptance by, the foreign LLC's initial registered agent in Florida;
- The name, title or capacity, and address of at least one person with the authority to manage the foreign LLC; and
- Additional information as may be necessary or appropriate in order to enable DOS to determine whether the foreign LLC is entitled to file an application for a certificate of authority and to determine and assess applicable fees.[39]

Unless DOS determines that such an application does not comply with the LLC Act's filing requirements, DOS must, upon the payment of all filing fees, file the certificate of authority application.[40] The filing of the application means the foreign LLC has obtained a certificate of authority and is authorized to do business in Florida.[41] Such an LLC

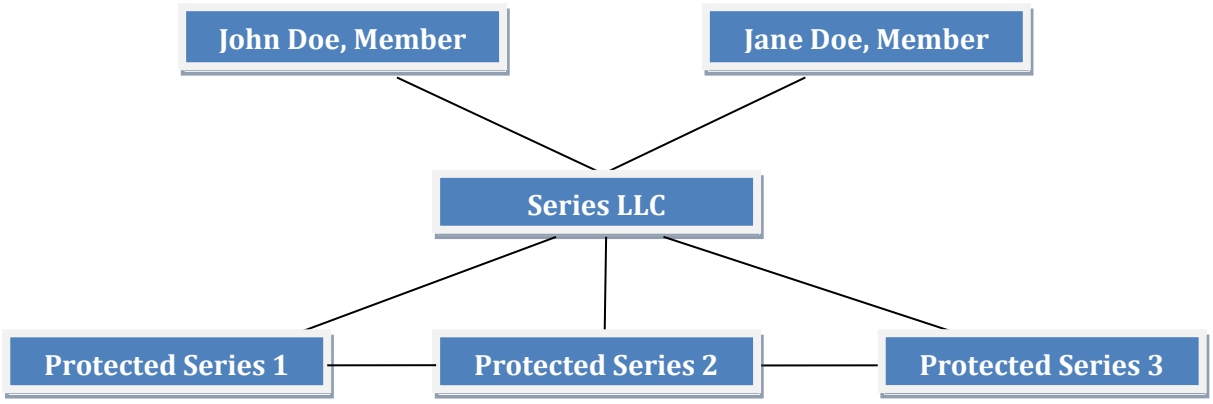
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a foreign entity authorized to transact business in Florida that is an authorized entity and whose business address is identical to the address of the registered office. S. 605.0113, F.S.
[33] The articles of organization may contain statements on additional matters as specified in statute. S. 605.0201, F.S.
[34] Except as otherwise provided, any document delivered to DOS for filing under the LLC Act may specify an effective time and a delayed effective date. In the case of initial articles of organization, a prior effective date may be specified in the articles of organization if such date is within five business days before the date of filing. If the record does not specify an effective time or a prior or delayed effective date, the record is effective on the date and at the time the record is accepted, as evidenced by DOS's endorsement of the date and time on the filing. S. 605.0207, F.S.
[35] S. 605.0201, F.S.
[36] S. 605.0105, F.S.
[37] The federal employer identification number, also known as a federal tax identification number, is issued by the IRS and used to identify a business for federal tax purposes. IRS, *Employer ID Numbers*, https://www.irs.gov/businesses/small-businesses-self-employed/employer-id-numbers (last visited Mar. 5, 2025)
[38] S. 605.0212, F.S.
[39] S. 605.0903, F.S.
[40] *Id.*
[41] *Id.*

must file annual reports as required of a domestic LLC, which reports must include additional information pertinent to a foreign LLC as specified in the LLC Act.[42]

Protected Series Limited Liability Companies

In 1996, Delaware enacted legislation providing for the formation of a "protected series limited liability company" ("series LLC"), which offers both the traditional, vertical liability shield of an LLC and a new, horizontal liability shield for any protected series of the LLC, as diagrammed below; in other words, the assets of any one protected series of an LLC are not available to satisfy the claims of creditors of the LLC or of any other protected series of the LLC, without the need to organize each protected series as an independent LLC.[43] Since then, 20 other states and the District of Columbia have provided for the formation of some type of series LLC.[44]



Uniform Protected Series Act

In response to the growing popularity of this type of business entity, the Uniform Law Commission promulgated the Uniform Protected Series Act ("UPSA") in 2017, intended as a model law that could be inserted into a state's existing LLC statutes.[45] The UPSA contains definitions; a description of the nature and purpose of a series LLC, as well as its powers, purpose, and duration; a description of how a protected series is governed by the LLC's operating agreement; and rules for applying certain provisions of a state's existing LLC act to a protected series.[46]

Florida

A series LLC formed in another state (a "foreign series LLC") is currently authorized to do business in Florida if it meets all applicable statutory requirements for a foreign LLC and registers with DOS.[47] However, Florida law does not currently recognize the series LLC model; thus, each protected series in a foreign series LLC must qualify to do business in Florida as if each series were a separate legal entity. Moreover, there is no guidance for lawyers and judges being asked to address a foreign series LLC with respect to contracts, claims, and disputes.[48]

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[42] S. 605.0212, F.S.
[43] Protected Series LLC Task Force of the Florida Bar Business Law Section, *White Paper*: *Analysis of Proposed Additions to Chapter 605* (Jan. 14, 2024).
[44] These states are: Wisconsin, Oklahoma, Illinois, Nevada, Tennessee, Iowa, Texas, Kansas, Missouri, Montana, Utah, Alabama, Indiana, Arkansas, Nebraska, North Dakota, South Dakota, Virginia, Wyoming, and Ohio. Puerto Rico also recognizes a protected series LLC. *Id.*
[45] Uniform Law Commission, *The Uniform Protected Series Act*, https://higherlogicdownload.s3-external-1.amazonaws.com/UNIFORMLAWS/36953c44-f8c8-04e4-33b4-7217f4c94aa1_file.pdf?AWSAccessKeyId=AKIAVRDO7IEREB57R7MT&Expires=1680018971&Signature=sTvqf2axyQzxE016hsFUBH9KNgc%3D (last visited Mar. 5, 2025).
[46] *Id.*
[47] *See* Business Law Section, *supra* note 43.
[48] *Id.*; *See* s. 605.0902, F.S., authorizing DOS to require each individual series of a foreign series LLC to make a separate application for a certificate of authority, and to make such other filings as may be required for purposes of complying with the requirements of the LLC Act as if such series was a separate foreign LLC.

In 2020, the Business Law Section of the Florida Bar formed the Protected Series LLC Task Force ("Task Force") to analyze the USPA and consider its adoption in Florida.[49] The Task Force ultimately proposed that new sections be added to the LLC Act to authorize the formation of a series LLC under Florida law, using model language borrowed from the UPSA and language which deviates from the UPSA to address unique aspects of Florida law.[50]

OTHER RESOURCES:

Uniform Law Commission: Uniform Protected Series Act
Florida Bar Business Law Section: Protected Series LLC Task Force

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	18 Y, 0 N	3/5/2025	Jones	Mawn
Industries & Professional Activities Subcommittee			Anstead	Garcia
Judiciary Committee				

[49] *See* Business Law Section, *supra* note 43.
[50] *Id.*

A bill to be entitled

An act relating to limited liability companies; amending s. 48.062, F.S.; defining the terms "registered foreign protected series of a foreign series limited liability company" and "registered foreign series limited liability company"; specifying that certain limited liability companies are considered a nonresident under certain circumstances; providing for service of a summons and complaint on such companies and series; specifying that such service serves as notice to such companies and series; amending s. 605.0103, F.S.; correcting a cross-reference; amending s. 605.0117, F.S.; conforming a provision to changes made by the act; amending s. 605.0211, F.S.; revising requirements for certificates of status; creating s. 605.2101, F.S.; providing a short title; creating s. 605.2102, F.S.; defining terms; creating s. 605.2103, F.S.; providing that a protected series of a series limited liability company is a person distinct from certain other entities; creating s. 605.2104, F.S.; providing for powers and prohibitions for protected series of series limited liability companies; creating s. 605.2105, F.S.; providing construction; creating s. 605.2106, F.S.; providing construction regarding protected series

operating agreements; providing applicability with regard to certain restrictions on limited liability companies; creating s. 605.2107, F.S.; providing prohibitions and authorizations relating to operating agreements; creating s. 605.2108, F.S.; providing applicability; creating s. 605.2201, F.S.; authorizing domestic limited liability companies to establish protected series; specifying requirements for establishing protected series and amending protected series designations; creating s. 605.2202, F.S.; specifying requirements for naming a protected series; creating s. 605.2203, F.S.; providing specifications and requirements for the registered agent for a protected series; specifying requirements relating to protected series designations; specifying that a registered agent is not required to distinguish between certain processes, notices, demands, and records unless otherwise agreed upon; creating s. 605.2204, F.S.; authorizing service on, and provision of notice and demand to, certain limited liability companies and protected series in a specified manner; providing that certain notice is effective regardless of whether any notice or demand identifies a person if certain requirements are met; providing authorizations relating to certain services and notices; providing

construction; creating s. 605.2205, F.S.; requiring the Department of State to issue a certificate of status under certain circumstances; specifying requirements for certificates of status; providing that a certificate of status may be relied upon as conclusive evidence of the facts stated in the certificate; creating s. 605.2206, F.S.; requiring series limited liability companies and registered foreign series limited liability companies to include specified information in a required annual report; specifying that failure to include such information prevents a certificate of status from being issued; creating s. 605.2301, F.S.; specifying that only certain assets may be considered associated assets; specifying requirements for an asset to be considered an associated asset; authorizing that certain records and recordkeeping be organized in a specified manner; authorizing series limited liability companies or protected series of such companies to hold an associated asset in a specified manner; providing exceptions; creating s. 605.2302, F.S.; specifying requirements for becoming an associated member of a protected series of a series limited liability company; creating s. 605.2303, F.S.; requiring that protected-series transferable interests be owned

initially by an associated member of the protected series or the series limited liability company; providing for ownership when a protected series of a series limited liability company does not have associated members upon establishment under certain circumstances; authorizing series limited liability companies to acquire such interests by transfer; providing applicability; creating s. 605.2304, F.S.; authorizing a protected series to have one or more protected-series managers; specifying that if a protected series does not have associated members, the series limited liability company is the protected-series manager; providing applicability; specifying that a person does not owe a duty to specified entities for certain reasons; providing rights of associated members; providing applicability; specifying that an associated member of a member-managed protected series, or a protected-series manager of a manager-managed protected series, is an agent for the protected series and has a specified power; creating s. 605.2305, F.S.; providing rights for certain persons relating to information concerning protected series; providing applicability; creating s. 605.2401, F.S.; providing limitations on liability for certain persons; creating s. 605.2402, F.S.;

specifying that certain claims are governed by specified provisions; specifying that the failure of limited liability companies or protected series to observe certain formalities is not a ground to disregard a specified limitation; providing applicability; creating s. 605.2403, F.S.; specifying that certain provisions relating to the provision or restriction of remedies apply to certain judgment creditors; creating s. 605.2404, F.S.; defining the terms "enforcement date" and "incurrence date"; authorizing that certain judgments be enforced in accordance with specified provisions; authorizing courts to provide a specified prejudgment remedy; providing that a party making a certain assertion has the burden of proof in specified proceedings; providing applicability; creating s. 605.2501, F.S.; providing events causing the dissolution of protected series of series limited liability companies; creating s. 605.2502, F.S.; specifying requirements and authorizations relating to dissolved protected series; specifying that a series limited liability company has not completed winding up until each of the protected series of the company has done so; creating s. 605.2503, F.S.; providing for the effect of reinstatement of series limited liability companies

and revocation of voluntary dissolutions; creating s. 605.2601, F.S.; defining terms; creating s. 605.2602, F.S.; prohibiting protected series from involvement in certain transactions; creating s. 605.2603, F.S.; prohibiting series limited liability companies from involvement in certain transactions; creating s. 605.2604, F.S.; authorizing series limited liability companies to be a party to a merger under certain circumstances; creating s. 605.2605, F.S.; requiring that plans of merger meet certain requirements; creating s. 605.2606, F.S.; requiring articles of merger to meet certain requirements; creating s. 605.2607, F.S.; providing for effects of mergers of protected series; creating s. 605.2608, F.S.; providing the means for enforcement of creditors' rights; providing applicability of certain provisions after a merger; creating s. 605.2701, F.S.; providing that the law of the governing jurisdiction of a foreign series limited liability company's formation governs certain aspects of the internal affairs of the foreign series limited liability company; providing applicability; creating s. 605.2702, F.S.; specifying requirements for making a specified determination relating to certain companies transacting business in this state or being subject to the personal

jurisdiction of the courts in this state; creating s. 605.2703, F.S.; providing applicability of laws of this state relating to certificates of authority for foreign series limited liability companies and foreign protected series of such companies; requiring that an application by a foreign protected series for a certificate of authority include certain information and comply with specified provisions; providing applicability; creating s. 605.2704, F.S.; requiring foreign series limited liability companies and foreign protected series of such companies to make specified disclosures; tolling such requirements under certain circumstances; authorizing certain parties to make a specified request or bring a separate proceeding if such company or series fails to make the disclosures; creating s. 605.2801, F.S.; providing applicability of provisions relating to electronic signatures; creating s. 605.2802, F.S.; providing construction; prohibiting domestic limited liability companies from creating or designating any protected series before a specified date; providing an effective date.

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

Section 1. Present subsection (7) of section 48.062,

Florida Statutes, is redesignated as subsection (11), a new subsection (7) and subsections (8), (9), and (10) are added to that section, and subsections (1) and (6) of that section are amended, to read:

48.062 Service on a domestic limited liability company or registered foreign limited liability company.—

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

(a) "Registered foreign limited liability company" means a foreign limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the Department of State.

(b) "Registered foreign protected series of a foreign series limited liability company" means a protected series of a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the Department of State.

(c) "Registered foreign series limited liability company" means a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the Department of State.

(6) A foreign limited liability company, foreign series limited liability company, or foreign protected series of a foreign series limited liability company engaging in business in this state which is not registered is considered, for purposes of service of process, a nonresident engaging in business in

this state and may be served pursuant to s. 48.181 or by order of the court under s. 48.102.

(7) Service of a summons and complaint on a series limited liability company is notice to each protected series of the series limited liability company of service of the summons and complaint and the contents of the complaint.

(8) Service of a summons and complaint on a protected series of a series limited liability company is notice to the series limited liability company and any other protected series of the series limited liability company of service of the summons and complaint and the contents of the complaint.

(9) Service of a summons and complaint on a registered foreign series limited liability company is notice to each registered foreign protected series of the registered foreign series limited liability company of service of the summons and complaint and the contents of the complaint.

(10) Service of a summons and complaint on a registered foreign protected series of a foreign series limited liability company is notice to the foreign series limited liability company and to any other registered foreign protected series of the foreign series limited liability company of service of the summons and complaint and the contents of the complaint.

(11) This section does not apply to service of process on insurance companies.

Section 2. Subsection (1) of section 605.0103, Florida

Statutes, is amended to read:

605.0103 Knowledge; notice.—

(1) A person knows a fact if the person:

(a) Has actual knowledge of the fact; or

(b) Is deemed to know the fact under paragraph (4)(a) ~~(4)(b)~~, or a law other than this chapter.

Section 3. Subsection (3) of section 605.0117, Florida Statutes, is amended to read:

605.0117 Serving process, giving notice, or making a demand.—

~~(3) A registered series of a foreign series limited liability company may be served in the same manner as a registered limited liability company.~~

Section 4. Paragraphs (c) through (g) of subsection (1) and subsection (2) of section 605.0211, Florida Statutes, are amended to read:

605.0211 Certificate of status.—

(1) The department, upon request and payment of the requisite fee, shall issue a certificate of status for a limited liability company if the records filed in the department show that the department has accepted and filed the company's articles of organization. A certificate of status must state the following:

(c) Whether all fees and penalties due to the department under this chapter have been paid.

(d) Whether ~~If~~ the company's most recent annual report required under s. 605.0212 has ~~not~~ been filed by the department.

(e) Whether ~~If~~ the department has administratively dissolved the company or received a record notifying the department that the company has been dissolved by judicial action pursuant to s. 605.0705.

(f) Whether ~~If~~ the department has filed articles of dissolution for the company.

(g) Whether ~~If~~ the department has accepted and filed a statement of termination.

(2) The department, upon request and payment of the requisite fee, shall furnish a certificate of status for a foreign limited liability company if the filed records ~~filed~~ show that the department has filed a certificate of authority for that company. A certificate of status for a foreign limited liability company must state the following:

(a) The foreign limited liability company's name and any current alternate name adopted under s. 605.0906(1) for use in this state.

(b) That the foreign limited liability company is authorized to transact business in this state.

(c) Whether all fees and penalties due to the department under this chapter or other law have been paid.

(d) Whether ~~If~~ the foreign limited liability company's most recent annual report required under s. 605.0212 has ~~not~~

been filed by the department.

(e) Whether ~~If~~ the department has:

1. Revoked the foreign limited liability company's certificate of authority; or

2. Filed a notice of withdrawal of certificate of authority of the foreign limited liability company.

Section 5. Section 605.2101, Florida Statutes, is created to read:

605.2101 Short title.—Sections 605.2101-605.2802 may be cited as the "Uniform Protected Series Provisions."

Section 6. Section 605.2102, Florida Statutes, is created to read:

605.2102 Definitions.—As used in ss. 605.2101-605.2802, the term:

(1) "Asset" means either of the following:

(a) Property in which a series limited liability company or a protected series has rights; or

(b) Property as to which the series limited liability company or protected series has the power to transfer rights.

(2) "Associated asset" means an asset that meets the requirements of s. 605.2301.

(3) "Associated member" means a member that meets the requirements of s. 605.2302.

(4) "Foreign protected series" means a series, protected series, protected cell, segregated account, or similar part of a

foreign limited liability company, however the part is denominated, which is established under law that limits, or limits if conditions specified under law are satisfied, the liability of the part to a creditor of the foreign company or of another part of the structure, regardless of whether the law uses the term "protected series."

(5) "Foreign series limited liability company" means a foreign limited liability company that has at least one foreign series or protected series.

(6) "Non-associated asset" means either of the following:

(a) An asset of a series limited liability company which is not an associated asset of the company; or

(b) An asset of a protected series of a series limited liability company which is not an associated asset of the protected series.

(7) "Person" has the same meaning as in s. 605.0102 and includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of another protected series of the entity to satisfy a claim from assets of the protected series.

(8) "Protected series," except in the phrase "foreign protected series," means a protected series established under s. 605.2201.

(9) "Protected-series manager" means a person under whose authority the powers of a protected series are exercised and under whose direction the activities and affairs of the protected series are managed under the operating agreement and this chapter.

(10) "Protected-series transferable interest" means the right, as initially owned by a person in the person's capacity as an associated member, to receive distributions from a protected series, regardless of whether the person remains a member or continues to own any part of the right. The term includes a fraction of an interest.

(11) "Protected-series transferee" means a person other than the series limited liability company to which all or part of a protected-series transferable interest of a protected series of a series limited liability company has been transferred. The term includes a person that owns a protected-series transferable interest as a result of ceasing to be an associated member of a protected series.

(12) "Registered foreign protected series" means a protected series of a foreign series limited liability company that has an active certificate of authority to transact business in this state pursuant to a record filed with the department.

(13) "Registered foreign series limited liability company" means a foreign series limited liability company that has an active certificate of authority to transact business in this

state pursuant to a record filed with the department.

(14) "Series limited liability company," except in the phrase "foreign series limited liability company," means a domestic limited liability company that has at least one protected series.

Section 7. Section 605.2103, Florida Statutes, is created to read:

605.2103 Nature of protected status.—A protected series of a series limited liability company is a person distinct from all of the following:

(1) The series limited liability company, subject to ss. 605.2104(3), 605.2501(1), and 605.2502(4).

(2) Another protected series of the series limited liability company.

(3) A member of the series limited liability company, regardless of whether the member is an associated member of the protected series of the series limited liability company.

(4) A protected-series transferee of a protected series of the series limited liability company.

(5) A transferee of a transferable interest of the series limited liability company.

Section 8. Section 605.2104, Florida Statutes, is created to read:

605.2104 Powers and duration of protected series.—

(1) A protected series of a series limited liability

company has the capacity to sue and be sued in its own name.

(2) Except as otherwise provided in subsections (3) and (4), a protected series of a series limited liability company has the same powers and purposes as the series limited liability company.

(3) A protected series of a series limited liability company ceases to exist not later than when the series limited liability company completes its winding up.

(4) A protected series of a series limited liability company may not be or do, as applicable, any of the following:

(a) Be a member of the series limited liability company;

(b) Establish a protected series; or

(c) Except as permitted by the laws of this state other than this chapter, have a purpose or power, or take an action, that the laws of this state other than this chapter prohibit a limited liability company from having or doing.

Section 9. Section 605.2105, Florida Statutes, is created to read:

605.2105 Protected series governing law.—The laws of this state govern the following:

(1) The internal affairs of a protected series of a series limited liability company, including all of the following:

(a) Relations among any associated members of the protected series.

(b) Relations between the protected series and:

1. Any associated member;

2. Any protected-series manager; or

3. Any protected-series transferee.

(c) Relations between any associated member and:

1. Any protected-series manager; or

2. Any protected-series transferee.

(d) The rights and duties of a protected-series manager.

(e) Governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs.

(f) Procedures and conditions for becoming an associated member or a protected-series transferee.

(2) The relations between a protected series of a series limited liability company and each of the following:

(a) The series limited liability company.

(b) Another protected series of the series limited liability company.

(c) A member of the series limited liability company which is not an associated member of the protected series of the series limited liability company.

(d) A protected-series manager that is not a protected-series manager of the protected series.

(e) A protected-series transferee that is not a protected-series transferee of the protected series.

(3) The liability of a person for a debt, an obligation,

or another liability of a protected series of a series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as any of the following:

(a) An associated member, protected-series transferee, or protected-series manager of the protected series;

(b) A member of the series limited liability company which is not an associated member of the protected series;

(c) A protected-series manager that is not a protected-series manager of the protected series;

(d) A protected-series transferee that is not a protected-series transferee of the protected series;

(e) A manager of the series limited liability company; or

(f) A transferee of a transferable interest of the series limited liability company.

(4) The liability of a series limited liability company for a debt, an obligation, or another liability of a protected series of the series limited liability company if the debt, obligation, or liability is asserted solely in connection with any of the following on the part of the series limited liability company:

(a) Having delivered to the department for filing under s. 605.2201(2) a protected series designation pertaining to the protected series or under s. 605.2201(4) or s. 605.2202(3) a statement of designation change pertaining to the protected

series;

(b) Being or acting as a protected-series manager of the protected series;

(c) Having the protected series be or act as a manager of the series limited liability company; or

(d) Owning a protected-series transferable interest of the protected series.

(5) The liability of a protected series of a series limited liability company for a debt, an obligation, or another liability of the series limited liability company or of another protected series of the series limited liability company if the debt, obligation, or liability is asserted solely by reason of any of the following:

(a) The protected series:

1. Being a protected series of the series limited liability company or having as a protected-series manager the series limited liability company or another protected series of the series limited liability company; or

2. Being or acting as a protected-series manager of another protected series of the series limited liability company or a manager of the series limited liability company; or

(b) The series limited liability company owning a protected-series transferable interest of the protected series.

Section 10. Section 605.2106, Florida Statutes, is created to read:

605.2106 Relation of a protected series operating agreement and the protected series provisions of this chapter.—

(1) Except as otherwise provided in this section, and subject to ss. 605.2107 and 605.2108, the operating agreement of a series limited liability company governs the following:

(a) The internal affairs of a protected series, including all of the following:

1. Relations among any associated members of the protected series.

2. Relations between the protected series and:

a. Any associated member of the protected series;

b. Any protected-series manager; or

c. Any protected-series transferee.

3. Relations between any associated member and:

a. Any protected-series manager; or

b. Any protected-series transferee.

4. The rights and duties of a protected-series manager.

5. Governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs.

6. Procedures and conditions for becoming an associated member or a protected-series transferee.

(b) Relations between a protected series of the series limited liability company and each of the following:

1. The series limited liability company.

2. Another protected series of the series limited liability company.

3. The protected series, any of its protected-series managers, any associated member of the protected series, or any protected-series transferee of the protected series.

4. A person in the person's capacity as:

a. A member of the series limited liability company which is not an associated member of the protected series;

b. A protected-series transferee or protected-series manager of another protected series; or

c. A transferee of the series limited liability company.

(2) If this chapter restricts the power of an operating agreement to affect a matter, the restriction applies to a matter under ss. 605.2101-605.2802 in accordance with s. 605.0105.

(3) If a law of this state other than this chapter imposes a prohibition, limitation, requirement, condition, obligation, liability, or other restriction on a limited liability company; a member, a manager, or another agent of a limited liability company; or a transferee of a limited liability company, except as otherwise provided in the laws of this state other than this chapter, the restriction applies in accordance with s. 605.2108.

(4) Except as otherwise provided in s. 605.2107, if the operating agreement of a series limited liability company does not provide for a matter described in subsection (1) in a manner

authorized by ss. 605.2101-605.2802, the matter is determined in accordance with the following:

(a) To the extent that ss. 605.2101-605.2802 address the matter, ss. 605.2101-605.2802 govern.

(b) To the extent that ss. 605.2101-605.2802 do not address the matter, this chapter governs the matter in accordance with s. 605.2108.

Section 11. Section 605.2107, Florida Statutes, is created to read:

605.2107 Additional limitations on operating agreements.—

(1) An operating agreement may not vary the effect of:

(a) This section;

(b) Section 605.2103;

(c) Section 605.2104(1);

(d) Section 605.2104(2), to provide a protected series a power beyond those provided in this chapter to a limited liability company;

(e) Section 605.2104(3) or (4);

(f) Section 605.2105;

(g) Section 605.2106;

(h) Section 605.2108;

(i) Section 605.2201, except to vary the manner in which a series limited liability company approves establishing a protected series;

(j) Section 605.2202;

(k) Section 605.2301;

(l) Section 605.2302;

(m) Section 605.2303(1) or (2);

(n) Section 605.2304(3) or (6);

(o) Section 605.2401, except to decrease or eliminate a limitation of liability stated in that section;

(p) Section 605.2402;

(q) Section 605.2403;

(r) Section 605.2404;

(s) Section 605.2501(1), (4), and (5);

(t) Section 605.2502, except to designate a different person to manage winding up;

(u) Section 605.2503;

(v) Sections 605.2601-605.2608;

(w) Sections 605.2701-605.2704;

(x) Sections 605.2801-605.2802, except to vary the person that has the right to sign and deliver to the department for filing a record under this chapter; or

(y) A provision of this chapter pertaining to:

1. A registered office or registered agents; or

2. The department, including provisions relating to records authorized or required to be delivered to the department for filing under this chapter.

(2) An operating agreement may not unreasonably restrict the duties and rights conferred under s. 605.2305 but may impose

reasonable restrictions on the availability and use of information obtained under that section and may provide appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use.

Section 12. Section 605.2108, Florida Statutes, is created to read:

605.2108 Application of this chapter to protected series.—

(1) Except as otherwise provided in subsection (2) and s. 605.2107, the following provisions apply in the application of ss. 605.2106, 605.2304(3) and (6), 605.2501(4)(a), 605.2502(1), and 605.2503(2):

(a) A protected series of a series limited liability company is deemed to be a limited liability company that is formed separately from the series limited liability company and is distinct from the series limited liability company and any other protected series of the series limited liability company;

(b) An associated member of the protected series of a series limited liability company is deemed to be a member of the series limited liability company deemed to exist under paragraph (a);

(c) A protected-series transferee of the protected series is deemed to be a transferee of the series limited liability company deemed to exist under paragraph (a);

(d) A protected-series transferable interest of the protected series is deemed to be a transferable interest of the

series limited liability company deemed to exist under paragraph (a);

(e) A protected-series manager is deemed to be a manager of the series limited liability company deemed to exist under paragraph (a);

(f) An asset of the protected series is deemed to be an asset of the series limited liability company deemed to exist under paragraph (a), regardless of whether the asset is an associated asset of the protected series; or

(g) Any creditor or other obligee of the protected series is deemed to be a creditor or obligee of the series limited liability company deemed to exist under paragraph (a).

(2) Subsection (1) does not apply if its application would do either of the following:

(a) Contravene s. 605.0105; or

(b) Authorize or require the department to:

1. Accept for filing a type of record which this chapter does not authorize or require a person to deliver to the department for filing; or

2. Make or deliver a record that this chapter does not authorize or require the department to make or deliver.

(3) Except to the extent otherwise specified in ss. 605.2101-605.2802, the provisions of this chapter applicable to limited liability companies in general and their managers, members, and transferees, including, but not limited to,

provisions relating to formation, powers, operation, existence, management, court proceedings, and filings with the department and other state or local government agencies, are applicable to each series limited liability company and to each protected series established pursuant to s. 605.2201.

Section 13. Section 605.2201, Florida Statutes, is created to read:

605.2201 Establishment of protected series; change of designation.—

(1) With the affirmative vote or consent of all members of a limited liability company, the company may establish a protected series.

(2) To establish a protected series, a limited liability company shall deliver to the department for filing a protected series designation, signed by the company, stating the name of the company and the name of the protected series to be established, and any other information the department requires for filing.

(3) A protected series is established when the protected series designation takes effect under s. 605.0207.

(4) To amend a protected series designation, a series limited liability company shall deliver to the department for filing a statement of designation change, signed by the company, that sets forth the following:

(a) The name of the series limited liability company and

the name of the protected series to which the change to the protected series designation applies;

(b) Each change to the protected series designation; and

(c) A statement that each designation change was approved by the affirmative vote or consent of the members of the series limited liability company required to make each change to the protected series designation.

(5) Each designation change made pursuant to subsection (4) takes effect when the statement of designation change takes effect under s. 605.0207.

Section 14. Section 605.2202, Florida Statutes, is created to read:

605.2202 Protected series name.—

(1) Except as otherwise provided in subsection (2), the name of a protected series must comply with s. 605.0112.

(2) The name of a protected series of a series limited liability company must:

(a) Begin with the name of the series limited liability company, including any word or abbreviation required by s. 605.0112; and

(b) Contain the phrase "protected series" or the abbreviation "P.S." or "PS."

(3) If a series limited liability company changes its name, the company must deliver to the department for filing a statement of designation change for each of the company's

protected series, changing the name of each protected series to comply with this section.

Section 15. Section 605.2203, Florida Statutes, is created to read:

605.2203 Registered agent.—

(1) The registered agent in this state for a series limited liability company is the registered agent in this state for each protected series of that company.

(2) Before delivering a protected series designation to the department for filing, a series limited liability company must agree with a registered agent specifying that the agent will serve as the registered agent in this state for that company and for each protected series of that company.

(3) A person that signs a protected series designation delivered to the department for filing affirms as a fact that the series limited liability company on whose behalf the designation is delivered has complied with subsection (2).

(4) A person that ceases to be the registered agent for a series limited liability company ceases to be the registered agent for each protected series of that company.

(5) A person that ceases to be the registered agent for a protected series of a series limited liability company, other than as a result of the termination of the protected series, ceases to be the registered agent of that company and any other protected series of that company.

(6) Except as otherwise agreed upon by a series limited liability company and its registered agent, the registered agent is not obligated to distinguish between a process, notice, demand, or other record concerning the company and a process, notice, demand, or other record concerning a protected series of the company.

Section 16. Section 605.2204, Florida Statutes, is created to read:

605.2204 Series limited liability company; service of process; giving notice or making demand.—

(1) Process against a series limited liability company, a protected series of a series limited liability company, a registered foreign series limited liability company, or a registered foreign protected series of a registered foreign series limited liability company, respectively, may be served in the same manner as service is made on each such entity under s. 48.062 and chapter 48 or chapter 49.

(2) Any notice or demand on a series limited liability company or a protected series of a series limited liability company under this chapter may be given or made to any member of a member-managed series limited liability company or to any manager of a manager-managed series limited liability company; to the registered agent of a series limited liability company at the registered office of the series limited liability company in this state; or to any other address in this state which is the

principal office in this state of the series limited liability company.

(3) Any notice or demand on a registered foreign series limited liability company or a registered foreign protected series of a registered foreign series limited liability company under this chapter may be given or made to any member of a member-managed foreign series limited liability company or to any manager of a manager-managed foreign series limited liability company; to the registered agent of the registered foreign series limited liability company at the registered office of the registered foreign series limited liability company in this state; or to the principal office address, or any other address in this state which is, in fact, the principal office in this state of the registered foreign series limited liability company.

(4) This section does not affect the right to serve process on, give notice to, or make a demand on a series limited liability company or any protected series of a series limited liability company, or to or on any foreign series limited liability company or any protected series of the foreign series limited liability company, in any other manner provided by law.

Section 17. Section 605.2205, Florida Statutes, is created to read:

605.2205 Certificate of status for domestic or foreign protected series.—

(1) The department, upon request, payment of the requisite fee, and compliance with any other filing requirements of the department, shall issue a certificate of status for a protected series of a series limited liability company if the records filed in the department show that the department has accepted and filed articles of organization for the series limited liability company and a protected series designation for the protected series. A certificate of status for a protected series of a series limited liability company must state all of the following:

(a) The series limited liability company's name.

(b) The name of the protected series.

(c) That the series limited liability company was organized under the laws of this state and the date of organization.

(d) That the protected series was designated under the laws of this state and the date of designation.

(e) Whether all fees and penalties due to the department under this chapter or other law by the series limited liability company and the protected series have been paid.

(f) Whether the series limited liability company's most recent annual report required by s. 605.0212 has been filed by the department.

(g) Whether the series limited liability company's most recent annual report includes the name of the protected series,

unless:

1. When the series limited liability company delivered the annual report for filing, the protected series designation pertaining to the protected series had not yet taken effect; or

2. After the series limited liability company delivered the annual report for filing, the company delivered to the department for filing a statement of designation change, which changes the name of the protected series.

(h) Whether the department has administratively dissolved the series limited liability company or received a record notifying the department that the company has been dissolved by judicial action pursuant to s. 605.0705.

(i) Whether the department has administratively dissolved the protected series or received a record notifying the department that the protected series has been dissolved by judicial action pursuant to s. 605.2501(4) or (5).

(j) Whether the department has filed articles of dissolution for the series limited liability company.

(k) Whether the department has filed a statement of dissolution, termination, or relocation for the protected series.

(2) The department, upon request, payment of the requisite fee, and compliance with any other filing requirements of the department, shall issue a certificate of status for a foreign protected series of a foreign series limited liability company

if the records filed in the department show that the department has filed a certificate of authority for the foreign series limited liability company and a certificate of authority for the foreign protected series. A certificate of status for a registered foreign protected series of a registered foreign series limited liability company must state all of the following:

(a) The foreign series limited liability company's name and any current alternative name adopted under s. 605.0906(1) for use in this state.

(b) The name of the foreign protected series and any current alternative name adopted under s. 605.0906(1) for use in this state.

(c) That the foreign series limited liability company is authorized to transact business in this state.

(d) That the foreign protected series is authorized to transact business in this state.

(e) Whether all fees and penalties due to the department under this chapter or other law by the foreign series limited liability company and the foreign protected series have been paid.

(f) Whether the foreign series limited liability company's most recent annual report required by s. 605.0212 has been filed by the department.

(g) Whether the foreign series limited liability company's

most recent annual report includes the name of the foreign protected series, unless:

1. When the foreign series limited liability company delivered the annual report for filing, the foreign protected series designation pertaining to the foreign protected series had not yet taken effect; or

2. After the foreign series limited liability company delivered the annual report for filing, the foreign series limited liability company delivered to the department for filing a statement of designation change which changes the name of the foreign protected series.

(h) Whether the department has:

1. Revoked the foreign series limited liability company's certificate of authority or revoked the foreign protected series certificate of authority; or

2. Filed a notice of withdrawal of the certificate of authority for the foreign series limited liability company or for the foreign protected series.

(3) Subject to any qualification stated by the department in a certificate of status, a certificate of status issued by the department may be relied upon as conclusive evidence of the facts stated in the certificate of status as to the active status of the domestic or foreign series limited liability company and any protected series of the domestic or foreign limited liability company authorized to transact business in

this state.

Section 18. Section 605.2206, Florida Statutes, is created to read:

605.2206 Information required in annual report; failure to comply.—

(1) In the annual report required by s. 605.0212, a series limited liability company shall include the name of each protected series of the company:

(a) For which the series limited liability company has previously delivered to the department for filing a protected series designation; and

(b) Which has not dissolved and completed winding up.

(2) The failure of a series limited liability company to comply with subsection (1) with regard to a protected series prevents issuance of a certificate of status pertaining to the protected series, but does not otherwise affect the protected series.

(3) In the annual report required by s. 605.0212, a registered foreign series limited liability company shall include the name of each registered foreign protected series of the registered foreign series limited liability company:

(a) For which the registered foreign series limited liability company has previously delivered to the department for filing an application for a certificate of authority to transact business in this state, which has been accepted by the

department; and

(b) Which has not withdrawn its certificate of authority to transact business in this state.

(4) The failure of a registered foreign series limited liability company to comply with subsection (3) with regard to a registered foreign protected series prevents issuance of a certificate of status pertaining to the registered foreign protected series.

Section 19. Section 605.2301, Florida Statutes, is created to read:

605.2301 Associated asset.—

(1) Only an asset of a protected series may be an associated asset of the protected series. Only an asset of a series limited liability company may be an associated asset of the company.

(2)(a) An asset of a protected series of a series limited liability company is an associated asset of the protected series only if the protected series creates and maintains records that state the name of the protected series and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to:

1. Identify the asset and distinguish it from any other asset of the protected series, any asset of the series limited liability company, and any asset of any other protected series of the company;

2. Determine when and from which person the protected series acquired the asset or how the asset otherwise became an asset of the protected series; and

3. If the protected series acquired the asset from the series limited liability company or another protected series of the company, determine any consideration paid, the payor, and the payee.

(b) A deed or other instrument granting an interest in real property to or from one or more protected series of a series limited liability company, or any other instrument otherwise affecting an interest in real property held by one or more protected series of a series limited liability company, in each case to the extent such deed or other instrument is in favor of a person who gives value without knowledge of the lack of authority of the person signing and delivering a deed or other instrument and is recorded in the office for recording transfers or other matters affecting real property, is conclusive of the authority of the person signing and constitutes a record that such interest in real property is an associated asset or liability, as applicable, of the protected series.

(3)(a) An asset of a series limited liability company is an associated asset of the company only if the company creates and maintains records that state the name of the company and describe the asset with sufficient specificity to permit a

disinterested, reasonable individual to:

1. Identify the asset and distinguish it from any other asset of the series limited liability company and any asset of any protected series of the company;

2. Determine when and from which person the series limited liability company acquired the asset or how the asset otherwise became an asset of the company; and

3. If the series limited liability company acquired the asset from a protected series of the company, determine any consideration paid, the payor, and the payee.

(b) A deed or other instrument granting an interest in real property to or from a series limited liability company, or any other instrument otherwise affecting an interest in real property held by a series limited liability company, in each case to the extent such deed or other instrument is in favor of a person who gives value without knowledge of the lack of authority of the person signing and delivering a deed or other instrument and is recorded in the office for recording transfers or other matters affecting real property, is conclusive of the authority of the person signing and constitutes a record that such interest in real property is an associated asset or liability, as applicable, of the series limited liability company.

(4) The records and recordkeeping required by subsections (2) and (3) may be organized by specific listing, category,

type, quantity, or computational or allocative formula or procedure, including a percentage or share of any asset, or in any other reasonable manner.

(5) To the extent authorized by this chapter and the laws of this state other than this chapter, a series limited liability company or protected series of a series limited liability company may hold an associated asset directly or indirectly, through a representative, nominee, or similar arrangement, except for the following:

(a) A protected series may not hold an associated asset in the name of the series limited liability company or another protected series of the company; and

(b) A series limited liability company may not hold an associated asset in the name of a protected series of the company.

Section 20. Section 605.2302, Florida Statutes, is created to read:

605.2302 Associated member.—

(1) Only a member of a series limited liability company may be an associated member of a protected series of the company.

(2) A member of a series limited liability company becomes an associated member of a protected series of the company if the operating agreement or a procedure established by the operating agreement states all of the following:

(a) That the member is an associated member of the protected series.

(b) The date on which the member became an associated member of the protected series.

(c) Any protected-series transferable interest the associated member has in connection with becoming or being an associated member of the protected series.

(3) If a person that is an associated member of a protected series of a series limited liability company is dissociated from the company, the person ceases to be an associated member of the protected series.

Section 21. Section 605.2303, Florida Statutes, is created to read:

605.2303 Protected-series transferable interest.—

(1) A protected-series transferable interest of a protected series of a series limited liability company must be owned initially by an associated member of the protected series or the series limited liability company.

(2) If a protected series of a series limited liability company has no associated members when established, the company owns the protected-series transferable interests in the protected series.

(3) In addition to acquiring a protected-series transferable series interest under subsection (2), a series limited liability company may acquire a protected-series

transferable interest through a transfer from another person or as provided in the operating agreement.

(4) Except for s. 605.2108(1)(c), any provision of this chapter which applies to a protected-series transferee of a protected series of a series limited liability company applies to the company in its capacity as an owner of a protected-series transferable interest of the protected series. Any provision of the operating agreement of a series limited liability company which applies to a protected-series transferee of a protected series of the company applies to the company in its capacity as an owner of a protected-series transferable interest of the protected series.

Section 22. Section 605.2304, Florida Statutes, is created to read:

605.2304 Management.—

(1) A protected series may have one or more protected-series managers.

(2) If a protected series has no associated members, the series limited liability company is the protected-series manager.

(3) Section 605.2108 applies to the determination of any duties of a protected-series manager of a protected series to each of the following:

(a) The protected series.

(b) Any associated member of the protected series.

(c) Any protected-series transferee of the protected series.

(4) Solely by reason of being or acting as a protected-series manager of a protected series, a person owes no duty to any of the following:

(a) The series limited liability company.

(b) Another protected series of the series limited liability company.

(c) Another person in that person's capacity as:

1. A member of the series limited liability company which is not an associated member of the protected series;

2. A protected-series transferee or protected-series manager of another protected series; or

3. A transferee of the series limited liability company.

(5) An associated member of a protected series of a series limited liability company has the same rights as any other member of the company to vote on or consent to an amendment to the company's operating agreement or any other matter being decided by the members, regardless of whether the amendment or matter affects the interests of the protected series or the associated member.

(6) The right of a member to maintain a derivative action to enforce a right of a limited liability company pursuant to s. 605.0802 applies to each of the following:

(a) An associated member of a protected series, in

accordance with s. 605.2108.

(b) A member of a series limited liability company, in accordance with s. 605.2108.

(7) An associated member of a member-managed protected series is an agent for the protected series with power to bind the protected series to the same extent that a member of a member-managed limited liability company is an agent for the company with power to bind the company under s. 605.04074(1)(a). A protected-series manager of a manager-managed protected series is an agent for the protected series with power to bind the protected series to the same extent that a manager of a manager-managed limited liability company is an agent for the company with power to bind the company under s. 605.04074(2)(b).

Section 23. Section 605.2305, Florida Statutes, is created to read:

605.2305 Right of a person that is not an associated member of a protected series to information of a protected series.—

(1) A member of a series limited liability company which is not an associated member of a protected series of the company has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a member that is not a manager of a manager-managed limited liability company has a right to information of the company under s. 605.0410(1) and (3)(b).

(2) A person that was formerly an associated member of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a person dissociated as a member of a manager-managed limited liability company has a right to information concerning the limited liability company under s. 605.0410(4) or other applicable law.

(3) If an associated member of a protected series dies, the legal representative of the deceased associated member has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that the legal representative of a deceased member of a limited liability company has a right to information concerning the company under ss. 605.0410(9) and 605.0504.

(4) A protected-series manager of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a manager of a manager-managed limited liability company has a right to information concerning the company under s. 605.0410(3)(a).

(5) The court-ordered inspection provisions of s. 605.0411 apply to the information rights regarding series limited liability companies and protected series of such companies.

Section 24. Section 605.2401, Florida Statutes, is created to read:

605.2401 Limitations on liability.—

(1) A person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, an obligation, or another liability of either of the following:

(a) A protected series of a series limited liability company solely by reason of being or acting as:

1. An associated member, protected-series manager, or protected-series transferee of the protected series; or

2. A member, manager, or transferee of the company; or

(b) A series limited liability company solely by reason of being or acting as an associated member, protected-series manager, or protected-series transferee of a protected series of the company.

(2) Subject to s. 605.2404, the following apply:

(a) A debt, an obligation, or another liability of a series limited liability company is solely the debt, obligation, or liability of the company.

(b) A debt, an obligation, or another liability of a protected series is solely the debt, obligation, or liability of the protected series.

(c) A series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, an obligation, or another liability of a protected series of the company solely by reason of the protected series being a protected series of the company, or the series limited

liability company:

1. Being or acting as a protected-series manager of the protected series;

2. Having the protected series manage the series limited liability company; or

3. Owning a protected-series transferable interest of the protected series.

(d) A protected series of a series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, an obligation, or another liability of the company or another protected series of the company solely by reason of:

1. Being a protected series of the series limited liability company;

2. Being or acting as a manager of the series limited liability company or a protected-series manager of another protected series of the company; or

3. Having the series limited liability company or another protected series of the company be or act as a protected-series manager of the protected series.

Section 25. Section 605.2402, Florida Statutes, is created to read:

605.2402 Claim seeking to disregard limitation of liability.—

(1) Except as otherwise provided in subsection (2), a

claim seeking to disregard a limitation in s. 605.2401 is governed by the principles of law and equity, including a principle providing a right to a creditor or holding a person liable for a debt, an obligation, or another liability of another person, which would apply if each protected series of a series limited liability company were a limited liability company formed separately from the series limited liability company and distinct from the series limited liability company and any other protected series of the series limited liability company.

(2) The failure of a limited liability company or a protected series to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground to disregard a limitation in s. 605.2401(1) but may be a ground to disregard a limitation in s. 605.2401(2).

(3) This section applies to a claim seeking to disregard a limitation of liability applicable to a foreign series limited liability company or foreign protected series and comparable to a limitation stated in s. 605.2401, if either of the following applies:

(a) The claimant is a resident of this state, transacting business in this state, or authorized to transact business in this state; or

(b) The claim is to establish or enforce a liability arising under law of this state other than this chapter or from

an act or omission in this state.

Section 26. Section 605.2403, Florida Statutes, is created to read:

605.2403 Remedies of judgment creditor of associated member or other holder of a protected-series transferee.—The provisions of s. 605.0503 providing or restricting remedies available to a judgment creditor of a member or transferee of a limited liability company apply to a judgment creditor of either or both of the following:

(1) An associated member or other holder of a protected-series transferable interest in a protected series of a series limited liability company or a foreign series limited liability company.

(2) A series limited liability company, to the extent the company owns a protected-series transferable interest of a protected series.

Section 27. Section 605.2404, Florida Statutes, is created to read:

605.2404 Enforcement of claim against non-associated asset.—

(1) For the purposes of this section, the term:

(a) "Enforcement date" means 12:01 a.m. on the date on which a claimant first serves process on a series limited liability company or protected series in an action seeking to enforce a claim against an asset of the company or protected

series by attachment, levy, or similar means under this section.

(b) "Incurrence date," subject to s. 605.2608(2), means the date on which a series limited liability company or protected series of the company incurred the liability giving rise to a claim that a claimant seeks to enforce under this section.

(2) If a claim against a series limited liability company or a protected series of the company has been reduced to judgment, in addition to any other remedy provided by law or equity, the judgment may be enforced in accordance with the following:

(a) A judgment against the series limited liability company may be enforced against an asset of a protected series of the company if the asset:

1. Was a non-associated asset of the protected series on the incurrence date; or

2. Is a non-associated asset of the protected series on the enforcement date.

(b) A judgment against a protected series may be enforced against an asset of the series limited liability company if the asset:

1. Was a non-associated asset of the series limited liability company on the incurrence date; or

2. Is a non-associated asset of the series limited liability company on the enforcement date.

(c) A judgment against a protected series may be enforced against an asset of another protected series of the series limited liability company if the asset:

1. Was a non-associated asset of the other protected series on the incurrence date; or

2. Is a non-associated asset of the other protected series on the enforcement date.

(3) In addition to any other remedy provided by law or equity, if a claim against a series limited liability company or a protected series has not been reduced to a judgment and law other than this chapter permits a prejudgment remedy by attachment, levy, or similar means, the court may apply subsection (2) as a prejudgment remedy.

(4) In a proceeding under this section, the party asserting that an asset is or was an associated asset of a series limited liability company or a protected series of the series limited liability company has the burden of proof on the issue.

(5) This section applies to an asset of a foreign series limited liability company or foreign protected series if all of the following apply:

(a) The asset is real or tangible property located in this state.

(b) The claimant is a resident of this state or is transacting business or authorized to transact business in this

state, or the claim under this section is to enforce a judgment, or to seek a prejudgment remedy, pertaining to a liability arising from the law of this state other than this chapter or an act or omission in this state.

(c) The asset is not identified in the records of the foreign series limited liability company or foreign protected series in a manner comparable to the manner required by s. 605.2301.

Section 28. Section 605.2501, Florida Statutes, is created to read:

605.2501 Events causing dissolution of protected series.—A protected series of a series limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) Dissolution of the series limited liability company.

(2) Occurrence of an event or a circumstance that the operating agreement states causes dissolution of the protected series.

(3) Affirmative vote or consent of all associated members of the protected series.

(4) Entry by the court of an order dissolving the protected series on application by an associated member or a protected-series manager of the protected series:

(a) In accordance with s. 605.2108; and

(b) To the same extent, in the same manner, and on the

same grounds the court would enter an order dissolving a limited liability company on application by a member or manager of the limited liability company pursuant to s. 605.0702.

(5) Entry by the court of an order dissolving the protected series on application by the series limited liability company or a member or manager of the series limited liability company:

(a) In accordance with s. 605.2108; and

(b) To the same extent, in the same manner, and on the same grounds the court would enter an order dissolving a limited liability company on application by a member or manager of the limited liability company pursuant to s. 605.0702.

(6) Automatic or involuntary dissolution of the series limited liability company that established the protected series.

(7) The filing of a statement of administrative dissolution of the limited liability company or a protected series of the company by the department pursuant to s. 605.0714.

Section 29. Section 605.2502, Florida Statutes, is created to read:

605.2502 Winding up dissolved protected series.—

(1) Subject to subsections (2) and (3) and in accordance with s. 605.2108, the following apply:

(a) A dissolved protected series shall wind up its activities and affairs in the same manner that a dissolved limited liability company winds up its activities and affairs

under s. 605.0709, subject to the same requirements and conditions, and with the same effects.

(b) Judicial supervision or another judicial remedy is available in the winding up of the protected series to the same extent, in the same manner, under the same conditions, and with the same effects that apply under s. 605.0709(5).

(2) When a protected series of a series limited liability company dissolves, the company may deliver to the department for filing its articles of protected series dissolution stating the name of the series limited liability company and the protected series and that the protected series is dissolved. The filing of the articles of dissolution by the department has the same effect with regard to the protected series as the filing by a limited liability company of articles of dissolution with the department under s. 605.0707.

(3) When a protected series of a series limited liability company has completed winding up in accordance with s. 605.0709, the company that established the protected series may deliver to the department for filing a statement of designation cancellation, stating all of the following:

(a) The name of the company and the protected series.

(b) That the protected series is terminated with the effective date of the termination if that date is not the date of filing of the statement of designation cancellation.

(c) Any other information required by the department.

(4) The filing of the statement of designation cancellation by the department has the same effect as the filing by the department of a statement of termination under s. 605.0709(7).

(5) A series limited liability company has not completed its winding up until each of the protected series of the company has completed its winding up.

Section 30. Section 605.2503, Florida Statutes, is created to read:

605.2503 Effects of reinstatement of series limited liability company; revocation of voluntary dissolution.—If a series limited liability company that has been administratively dissolved is reinstated, or if a series limited liability company that voluntarily dissolved revokes its articles of dissolution before filing a statement of termination, both of the following apply:

(1) Each protected series of the series limited liability company ceases winding up.

(2) Section 605.0708 applies to the series limited liability company and to each protected series of the company, in accordance with s. 605.2108.

Section 31. Section 605.2601, Florida Statutes, is created to read:

605.2601 Entity transactions involving a series limited liability company or a protected series of the company

restricted; definitions.—As used in ss. 605.2601-605.2608, the term:

(1) "After a merger" or "after the merger" means when a merger under s. 605.2604 becomes effective and any time thereafter.

(2) "Before a merger" or "before the merger" means before a merger under s. 605.2604 becomes effective.

(3) "Continuing protected series" means a protected series of a surviving series limited liability company which continues in uninterrupted existence after a merger under s. 605.2604.

(4) "Merging company" means a limited liability company that is party to a merger under s. 605.2604.

(5) "Non-surviving company" means a merging company that does not continue in existence after a merger under s. 605.2604.

(6) "Relocated protected series" means a protected series of a non-surviving company which, after a merger under s. 605.2604, continues in uninterrupted existence as a protected series of the surviving company.

(7) "Surviving company" means a merging company that continues in existence after a merger under s. 605.2604.

Section 32. Section 605.2602, Florida Statutes, is created to read:

605.2602 Restrictions on entity transactions involving protected series.—Except as provided in ss. 605.2605(2), 605.2606(2), and 605.2607(1), a protected series may not

participate in; be a party to; result from; or be formed, organized, established, or created by either of the following:

(1) A conversion, domestication, interest exchange, or merger under this chapter or the law of a foreign jurisdiction, however the transaction is denominated under such law; or

(2) A transaction with the same substantive effect as a conversion, domestication, interest exchange, or merger under the law of this state or a foreign jurisdiction.

Section 33. Section 605.2603, Florida Statutes, is created to read:

605.2603 Restrictions on entity transactions involving series limited liability company.—A series limited liability company may not:

(1) Participate in; be a party to; result from; or be formed, organized, established, or created by either of the following:

(a) A conversion, domestication, or interest exchange, under this chapter or the law of a foreign jurisdiction, however the transaction is denominated under such law; or

(b) A transaction with the same substantive effect as a conversion, domestication, or interest exchange under the law of this state or a foreign jurisdiction.

(2) Except as otherwise provided in s. 605.2604, be a party to or the surviving company of either of the following:

(a) A merger under this chapter or the law of a foreign

jurisdiction, however a merger is denominated under such law; or

(b) A transaction with the same substantive effect as a merger under the law of this state or a foreign jurisdiction.

Section 34. Section 605.2604, Florida Statutes, is created to read:

605.2604 Restrictions on merger.—A series limited liability company may be a party to a merger in accordance with ss. 605.1021-605.1026, this section, and ss. 605.2605-605.2608 only if both of the following apply:

(1) Each other party to the merger is a limited liability company.

(2) The surviving company is not created in the merger.

Section 35. Section 605.2605, Florida Statutes, is created to read:

605.2605 Plan of merger.—In a merger under s. 605.2604, the plan of merger must do all of the following:

(1) Comply with s. 605.1022 relating to the contents of a plan of merger of a limited liability company.

(2) State in a record:

(a) For any protected series of a non-surviving company, whether, after the merger, the protected series will be a relocated protected series or be dissolved, wound up, and terminated.

(b) For any protected series of the surviving company which exists before the merger, whether, after the merger, the

protected series will be a continuing protected series or be dissolved, wound up, and terminated.

(c) For each relocated protected series or continuing protected series:

1. The name of any person that becomes an associated member or a protected-series transferee of the protected series after the merger, any consideration to be paid by, on behalf of, or in respect of the person, the name of the payor, and the name of the payee;

2. The name of any person whose rights or obligations in the person's capacity as an associated member or a protected-series transferee will change after the merger;

3. Any consideration to be paid to a person that before the merger was an associated member or a protected-series transferee of the protected series and the name of the payor; and

4. If, after the merger, the protected series will be a relocated protected series, its new name.

(d) For any protected series to be established by the surviving company as a result of the merger:

1. The name of the protected series and the address of its principal office;

2. Any protected-series transferable interest to be owned by the surviving company when the protected series is established; and

3. The name of and any protected-series transferable interest owned by any person that will be an associated member of the protected series when the protected series is established.

(e) For any person that is an associated member of a relocated protected series and will remain a member after the merger, any amendment to the operating agreement of the surviving limited liability company which:

1. Is or is proposed to be in a record; and

2. Is necessary or appropriate to state the rights and obligations of the person as a member of the surviving limited liability company.

Section 36. Section 605.2606, Florida Statutes, is created to read:

605.2606 Articles of merger.—In a merger under s. 605.2604, the articles of merger must do all of the following:

(1) Comply with s. 605.1025 relating to the articles of merger.

(2) Include as an attachment all of the following records, each to become effective when the merger becomes effective:

(a) For a protected series of a merging company being terminated as a result of the merger, a statement of designation cancellation and termination signed by the non-surviving merging company.

(b) For a protected series of a non-surviving company

which after the merger will be a relocated protected series:

1. A statement of relocation signed by the non-surviving company which contains the name of the series limited liability company and the name of the protected series before and after the merger; and

2. A statement of protected series designation signed by the surviving company.

(c) For a protected series being established by the surviving company as a result of the merger, a protected series designation signed by the surviving company.

Section 37. Section 605.2607, Florida Statutes, is created to read:

605.2607 Effect of merger.—When a merger of a protected series under s. 605.2604 becomes effective, in addition to the effects stated in s. 605.1026, all of the following apply:

(1) As provided in the plan of merger, each protected series of each merging series limited liability company which was established before the merger is either a relocated protected series or continuing protected series, or is dissolved, wound up, and terminated.

(2) Any protected series to be established as a result of the merger is established.

(3) Any relocated protected series or continuing protected series is the same person without interruption as it was before the merger.

(4) All property of a relocated protected series or continuing protected series continues to be vested in the protected series without transfer, reversion, or impairment.

(5) All debts, obligations, and other liabilities of a relocated protected series or continuing protected series continue as debts, obligations, and other liabilities of the relocated protected series or continuing protected series.

(6) Except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of a relocated protected series or continuing protected series remain in the protected series.

(7) The new name of a relocated protected series may be substituted for the former name of the relocated protected series in any pending action or proceeding.

(8) To the extent provided in the plan of merger, the following apply:

(a) A person becomes an associated member or a protected-series transferee of a relocated protected series or continuing protected series.

(b) A person becomes an associated member of a protected series established by the surviving company as a result of the merger.

(c) Any change in the rights or obligations of a person in the person's capacity as an associated member or a protected-series transferee of a relocated protected series or continuing

protected series takes effect.

(d) Any consideration to be paid to a person that before the merger was an associated member or a protected-series transferee of a relocated protected series or continuing protected series is due.

(9) Any person that is an associated member of a relocated protected series becomes a member of the surviving company, if not already a member.

Section 38. Section 605.2608, Florida Statutes, is created to read:

605.2608 Application of s. 605.2404 after merger.—

(1) A creditor's right that existed under s. 605.2404 immediately before a merger under that section may be enforced after the merger in accordance with the following provisions:

(a) A creditor's right that existed immediately before the merger against the surviving company, a continuing protected series, or a relocated protected series continues without change after the merger.

(b) A creditor's right that existed immediately before the merger against a non-surviving company:

1. May be asserted against an asset of the non-surviving company which vested in the surviving company as a result of the merger; and

2. Does not otherwise change.

(c) Subject to subsection (2), the following provisions

apply:

1. In addition to the remedy stated in paragraph (b), a creditor with a right conferred under s. 605.2404 which existed immediately before the merger against a non-surviving company or a relocated protected series may assert the right against:

a. An asset of the surviving company, other than an asset of the non-surviving company which vested in the surviving company as a result of the merger;

b. An asset of a continuing protected series;

c. An asset of a protected series established by the surviving company as a result of the merger;

d. If the creditor's right was against an asset of the non-surviving company, an asset of a relocated protected series; or

e. If the creditor's right was against an asset of a relocated protected series, an asset of another relocated protected series.

2. In addition to the remedy stated in paragraph (b), a creditor with a right that existed immediately before the merger against the surviving company or a continuing protected series may assert the right against:

a. An asset of a relocated protected series; or

b. An asset of a non-surviving company which vested in the surviving company as a result of the merger.

(2) For the purposes of paragraph (1)(c) and s.

605.2404(2)(a)1., (b)1., and (c)1., the incurrence date is deemed to be the date on which the merger becomes effective.

(3) A merger under s. 605.2604 does not affect the manner in which s. 605.2404 applies to a liability incurred after the merger becomes effective.

Section 39. Section 605.2701, Florida Statutes, is created to read:

605.2701 Governing law; foreign series limited liability companies and foreign protected series.—The law of the governing jurisdiction of a foreign series limited liability company governs all of the following:

(1) The internal affairs of a foreign protected series of the foreign series limited liability company, including the following:

(a) Relations among any associated members of the foreign protected series.

(b) Relations between the foreign protected series and:

1. Any associated member;

2. Any protected-series manager; or

3. Any protected-series transferee.

(c) Relations between any associated member and:

1. Any protected-series manager; or

2. Any protected-series transferee.

(d) The rights and duties of a protected-series manager.

(e) Governance decisions affecting the activities and

affairs of the foreign protected series and the conduct of those activities and affairs.

(f) Procedures and conditions for becoming an associated member or a protected-series transferee.

(2) Relations between the foreign protected series and the following:

(a) The foreign series limited liability company.

(b) Another foreign protected series of the foreign series limited liability company.

(c) A member of the foreign series limited liability company which is not an associated member of the foreign protected series.

(d) A foreign protected-series manager that is not a protected-series manager of the foreign protected series.

(e) A foreign protected-series transferee that is not a foreign protected-series transferee of the foreign protected series.

(f) A transferee of a transferable interest of the foreign series limited liability company.

(3) Except as otherwise provided in ss. 605.2402 and 605.2404, the liability of a person for a debt, an obligation, or another liability of a foreign protected series of a foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as any of the following:

(a) An associated member, a protected-series transferee, or a protected-series manager of the foreign protected series.

(b) A member of the foreign series limited liability company which is not an associated member of the foreign protected series.

(c) A protected-series manager of another foreign protected series of the foreign series limited liability company.

(d) A protected-series transferee of another foreign protected series of the foreign series limited liability company.

(e) A manager of the foreign series limited liability company.

(f) A transferee of a transferable interest of the foreign series limited liability company.

(4) Except as otherwise provided in ss. 605.2402 and 605.2404, the following apply:

(a) The liability of the foreign series limited liability company for a debt, an obligation, or another liability of a foreign protected series of the foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company, or the foreign protected series limited liability company:

1. Being or acting as a foreign protected-series manager of the foreign protected series;

2. Having the foreign protected series manage the foreign series limited liability company; or

3. Owning a protected-series transferable interest of the foreign protected series.

(b) The liability of a foreign protected series for a debt, an obligation, or another liability of the foreign series limited liability company or another foreign protected series of the foreign series limited liability company, if the debt, obligation, or liability is asserted solely by reason of the foreign protected series:

1. Being a foreign protected series of the foreign series limited liability company or having the foreign series limited liability company or another foreign protected series of the foreign series limited liability company be or act as a foreign protected-series manager of the foreign protected series; or

2. Managing the foreign series limited liability company or being or acting as a foreign protected-series manager of another foreign protected series of the foreign series limited liability company.

Section 40. Section 605.2702, Florida Statutes, is created to read:

605.2702 No attribution of activities constituting transacting business or for establishing jurisdiction.—In

determining whether a foreign series limited liability company or foreign protected series of the foreign series limited liability company is transacting business in this state or is subject to the personal jurisdiction of the courts in this state, the following apply:

(1) The activities and affairs of the foreign series limited liability company are not attributable to a foreign protected series of the foreign series limited liability company solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company.

(2) The activities and affairs of a foreign protected series are not attributable to the foreign series limited liability company or another foreign protected series of the foreign series limited liability company, solely by reason of the foreign protected series being a foreign protected series of the foreign series limited liability company.

Section 41. Section 605.2703, Florida Statutes, is created to read:

605.2703 Certificate of authority for foreign series limited liability company and foreign protected series; amendment of application.—

(1) Except as otherwise provided in this section and subject to ss. 605.2402 and 605.2404, the laws of this state governing application by a foreign limited liability company to

obtain a certificate of authority to transact business in this state as required under s. 605.0902, including the effect of obtaining a certificate of authority under s. 605.0903, and the effect of failure to have a certificate of authority as described in s. 605.0904, apply to a foreign series limited liability company and to a foreign protected series of a foreign series limited liability company, as if the foreign protected series was a foreign limited liability company formed separately from the foreign series limited liability company, and distinct from the foreign series limited liability company and any other foreign protected series of the foreign series limited liability company.

(2) An application by a foreign protected series of a foreign series limited liability company for a certificate of authority to transact business in this state must include all of the following:

(a) The name and governing jurisdiction of the foreign series limited liability company and the foreign protected series seeking a certificate of authority, and all of the other information required under s. 605.0902, and any other information required by the department.

(b) If the company has other foreign protected series, the name, title, capacity, and street and mailing address of at least one person that has the authority to manage the foreign limited liability company and that knows the name and street and

mailing address of:

1. Each other foreign protected series of the foreign series limited liability company; and

2. The foreign protected-series manager of, and the registered agent for service of process on, each other foreign protected series of the foreign series limited liability company.

(3) The name of a foreign protected series applying for a certificate of authority to transact business in this state must comply with ss. 605.0112 and 605.2202, which may be accomplished by using an alternate name pursuant to ss. 605.0906 and 865.09, if the alternate name complies with ss. 605.0112, 605.0906, and 605.2202.

(4) The requirements in s. 605.0907 relating to required information and amending of a certificate of authority apply to the information required by subsection (2).

(5) Sections 605.0903-605.0912 apply to a foreign limited liability company and to a protected series of a foreign series limited liability company applying for, amending, or withdrawing a certificate of authority to transact business in this state.

Section 42. Section 605.2704, Florida Statutes, is created to read:

605.2704 Disclosure required when a foreign series limited liability company or foreign protected series becomes a party to a proceeding.—

(1) Not later than 30 days after becoming a party to a proceeding before a civil, administrative, or other adjudicative tribunal of or located in this state, or a tribunal of the United States located in this state:

(a) A foreign series limited liability company shall disclose to each other party the name and street and mailing address of:

1. Each foreign protected series of the foreign series limited liability company; and

2. Each foreign protected-series manager of and a registered agent for service of process for each foreign protected series of the foreign series limited liability company.

(b) A foreign protected series of a foreign series limited liability company shall disclose to each other party the name and street and mailing address of:

1. The foreign series limited liability company and each manager of the foreign series limited liability company and an agent for service of process for the foreign series limited liability company; and

2. Any other foreign protected series of the foreign series limited liability company and each foreign protected-series manager of and an agent for service of process for the other foreign protected series.

(2) If a foreign series limited liability company or

foreign protected series challenges the personal jurisdiction of the tribunal, the requirement that the foreign series limited liability company or foreign protected series make disclosure under subsection (1) is tolled until the tribunal determines whether it has personal jurisdiction.

(3) If a foreign series limited liability company or foreign protected series does not comply with subsection (1), a party to the proceeding may do one or both of the following:

(a) Request the tribunal to treat the noncompliance as a failure to comply with the tribunal's discovery rules.

(b) Bring a separate proceeding in the court to enforce subsection (1).

Section 43. Section 605.2801, Florida Statutes, is created to read:

605.2801 Relation to Electronic Signatures in Global and National Commerce Act.—Section 605.1102 applies to ss. 605.2101-605.2802.

Section 44. Section 605.2802, Florida Statutes, is created to read:

605.2802 Effective date.—

(1) Beginning January 1, 2026, this chapter governs all domestic and foreign protected series limited liability companies and all domestic protected series and all foreign series that transact business in this state.

(2) A domestic limited liability company formed before

January 1, 2026, may not create or designate any protected series before the effective date of this act.

Section 45. This act shall take effect January 1, 2026.

HB 429

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 429	**COMPANION BILL:** SB 1820 (Leek)
TITLE: Motor Vehicle Manufacturers and Franchised Motor Vehicle Dealers	**LINKED BILLS:** None
SPONSOR(S): Yeager	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Civil Justice & Claims ➤ Commerce

SUMMARY

Effect of the Bill:

The bill revises provisions of the Florida Motor Vehicle Dealership Act (Act), which governs the licensure of, and contractual relationship between, motor vehicle dealers, manufacturers, distributors, and importers. The bill revises the prohibition regarding motor vehicle manufacturers measurement of the sales or service performance of franchised motor vehicle dealers. The bill prohibits manufacturers from implementing certain actions that are not in good faith. The bill revises provisions that govern discontinuations, cancellations, nonrenewals, modifications, and replacement of franchise agreements. The bill authorizes standing rights to motor vehicle dealer associations without the necessity of establishing irreparable harm.

Fiscal or Economic Impact:

The bill may have a positive economic impact on franchised motor vehicle dealers in the state.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill revises provisions of the Act related to the licensure, and contractual agreements, of motor vehicle dealers and manufacturers. The bill adds "common entity" to the prohibition of an applicant, licensee, or common entity (manufacturer) from measuring the sales or service performance of their franchised motor vehicle dealers, and further prohibits such measurements that are not noticed and explained in writing to the motor vehicle dealer before the beginning of the period for which the dealer's sales or service performance is measured. (Section 1)

The bill prohibits manufacturers from implementing or enforcing such sales measuring criteria without providing a written description to each such franchised dealer in this state. The bill requires, upon written request of a motor vehicle dealer, a manufacturer to provide the motor vehicle dealer all data on which the manufacturer relied in designing, calculating, establishing, and uniformly applying any sales or service performance measurement criteria. (Section 1)

The bill prohibits manufacturers and their common entities from engaging in any action, or implementing any policy, standard, rule, practice, or program, that is not in good faith, which includes:

- Conduct that is in whole or in part dishonest, deceptive, malicious, economically coercive, intimidating, threatening, or motivated by a desire to harm, punish, or adversely affect a motor vehicle dealer; or
- Conduct engaged in as retaliation against a motor vehicle dealer in whole or in part because the dealer:
  - Invoked any statutory right created by motor vehicle franchise law;
  - Asserted that the manufacturer has acted in a manner that violates the motor vehicle franchise law; or

- Testified, assisted, or participated in any manner in an investigation, proceeding, or hearing that may directly or indirectly affect the manufacturer. (Section 1)

The bill revises the exceptions to when a discontinuation, cancellation, or nonrenewal of a motor vehicle franchise agreement is considered unfair to include when such actions apply to all same line-make franchised motor vehicle dealers and are otherwise permitted. (Section 2)

The bill revises the burden of proof requirement for manufacturers when a modification or replacement of a franchise agreement is considered unfair to specify that the manufacturer also has the burden of proof that the discontinuation, cancellation, nonrenewal, modification, or replacement is fair and not prohibited. (Section 2)

The bill removes the authority of a motor vehicle dealer association with at least one member with a current franchise agreement to make a complaint of a violation of the motor vehicle franchise law to the Department of Highway Safety and Motor Vehicles (DHSMV), which prompts DHSMV to conduct an inquiry of a manufacturer. (Section 3)

The bill revises the provision that authorizes motor vehicle franchised dealers to make an application to a circuit court of the state for a temporary or permanent injunction to restrain any licensee from violating or continuing to violate any of the provisions of the Act or from failing or refusing to comply with these statutory requirements, as follows:

- Adds motor vehicle dealer associations to the entities that are allowed to apply to the circuit court for an injunction.
- Requires that the judicial jurisdiction of the injunction process include any court of competent jurisdiction instead of only the circuit court.
- Specifies that it is not necessary to establish irreparable harm in order to issue an injunction. (Section 4)

The bill revises provisions that allow franchised dealers to seek a declaration and adjudication with DHSMV for a proceeding and administrative hearing, or filing a written objection or notice of protest with DHSMV, as follows:

- Adds motor vehicle dealer associations on behalf of a member who is directly and adversely affected to the entities that are allowed to file a request with DHSMV.
- Specifies that motor vehicle associations may file such a request based on the rights of its members.
- Specifies that a motor vehicle dealer with standing to protest a proposed dealer based on physical location may file with DHSMV a written objection or notice of protest. (Section 5)

The effective date of the bill is July 1, 2025. (Section 6)

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

The bill may have a positive economic impact on franchised motor vehicle dealers in the state as it protects their current business model.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida Automobile Dealership Act

The Act,[1] governs the licensure of, and contractual relationship (franchise agreements[2]) between, motor vehicle manufacturers,[3] distributors,[4] and importers,[5] and provides substantial protections for motor vehicle dealers.[6] The Division of Motor Vehicles (Division) within DHSMV administers and enforces the Act, which generally specifies:

[1] Ch. 70-424, Laws of Fla., codified in ch. 320, F.S.

- Motor vehicle manufacturers, distributors, and importers (licensees) must be licensed under the Act to engage in business in Florida and the conditions and situations under which the DHSMV may deny, suspend, or revoke such licenses;
- The requirements for licensees wishing to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a request;
- The procedures licensees must follow to add a franchised dealership in an area already served by a franchised dealer, the protest process, and the DHSMV's role in such circumstances;
- The damages assessable against a licensee who violates the Act; and
- The DHSMV's authority to adopt rules to implement these sections of law.[7]

Common Entity

When the Act refers to a "common entity" it is referring to a person or business that is directly or indirectly controlled by, or has more than 30 percent equity interest in, a manufacturer, importer, distributor, or licensee, or an affiliate thereof.[8]

Measuring Sales or Service Performance

The Act prohibits applicants or licensees from measuring the sales or service performance of any of their franchised motor vehicle dealers in this state which have a material or adverse effect on any motor vehicle dealer that are unfair, unreasonable, arbitrary, or inequitable, or do not include all relevant and material local and regional criteria, data, and facts.[9]

Discontinuing, Canceling, Nonrenewing, Modifying, or Replacing Franchise Agreements

The Act authorizes motor vehicle dealers who receive a notice of intent to discontinue, cancel, not renew, modify, or replace a franchise agreement from a manufacturer to, within the 90-day notice period, file a petition or complaint for a determination of whether such action is unfair or prohibited. Such actions are considered unfair if they are not:[10]

- Clearly permitted by the franchise agreement;

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[2] "Franchise agreement" means a contract, franchise, new motor vehicle franchise, sales and service agreement, ore dealer agreement or any other terminology used to describe the contractual relationship between a manufacturer, factory branch, distributor, or importer, and a motor vehicle dealer, pursuant to which the motor vehicle dealer is authorized to transact business pertaining to motor vehicles of a particular line-make. "Line-make vehicles", in turn, means motor vehicles which are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer of same (such as Ford, General Motors, or Honda). However, motor vehicles sold or leased under multiple brand names or marks constitute a single line-make when they are included in a single franchise agreement, and every motor vehicle dealer in this state authorized to sell or lease any such vehicles has been offered the right to sell or lease all of the multiple brand names or marks covered by the single franchise agreement. S. 320.60(1) and (14), F.S.

[3] "Motor vehicle manufacturer" means any person, whether a resident or non-resident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. This term includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, it distributes its products. S. 320.60(9), F.S.

[4] "Distributor" means a person, resident or nonresident, who, in whole or in part, sells or distributes motor vehicles to motor vehicle dealers or who maintains distributor representatives. S. 320.60(5), F.S.

[5] "Importers" means a person who imports vehicles from a foreign country into the United States or into this state for the purpose of sale or lease. S. 320.60(7), F.S.

[6] "Motor vehicle dealer" means any person, firm, company, corporation, or entity who holds a license under s. 32.27, F.S., as a "franchised motor vehicle dealer" and, for commission, money, or other things of value, repairs or services motor vehicles pursuant to a franchise agreement; sells, exchanges, buys, leases or rents, or offers, or attempts to negotiate a sale or exchange of any interest in, motor vehicles,; or is engaged wholly or in party in the business of selling motor vehicles, whether or not such motor vehicles are owned by such person, firm, company, or corporation. Further, any person who repairs or services three or more motor vehicles; buys, sells, or deals in three or more motor vehicles in any 12-month period; or offers or displays for sale three or more motor vehicles is presumed to be a motor vehicle dealer, with exceptions. S. 32.60(11), F.S.

[7] S. 320.011, F.S.; ss. 320.60-320.70, F.S.

[8] S. 320.60(2)(a), F.S.

[9] S. 320.64(42)(a), F.S.

[10] S. 320.641(3), F.S.

- Undertaken in good faith;
- Undertaken for good cause;
- Based on a material and substantial breach of the franchise agreement; or
- Applied uniformly.

The Act provides new motor vehicle dealers with at least 180 days to correct an alleged failure before a manufacturer is authorized to send the notice of discontinuation, cancellation, or nonrenewal.[11]

A modification or replacement is unfair if it is not:[12]
- Clearly permitted by the franchise agreement;
- Undertaken in good faith; or
- Undertaken for good cause.

The applicant or licensee has the burden of proof that such action is fair and not prohibited.[13]

Complaints and Conduct of Inquiry

The act requires DHSMV to conduct an inquiry of a manufacturer relating to any written complaint alleging a violation of any provision of ss. 320.61-320.70, of the Act, made by the following entities:[14]
- A motor vehicle dealer with a current franchise agreement with the manufacturer, or
- A motor vehicle dealer association with at least one member with a current franchise agreement issued by the manufacturer.

Injunctions

DHSMV, or any motor vehicle dealer in the name of the DHSMV and the state and for the use and benefit of the motor vehicle dealer, may generally apply to any circuit court of the state for a temporary or permanent injunction[15] restraining any person from the following:[16]
- Acting as a licensee under the Act without being properly licensed;
- Violating or continuing to violate the Act; or
- Failing or refusing to comply with the requirements of injunction statute or any rule or regulation adopted thereunder.

The Act requires such injunctions to be issued without bond, and specifies that a single act in violation is sufficient to authorize the issuance of an injunction. However, this statutory remedy is not applicable to any motor vehicle dealer after final determination by DHSMV to discontinue, cancel, not renew, modify, or replace a franchise agreement.[17]

Administrative Hearings and Adjudications

A dealer who is directly and adversely affected by the actions or conduct of a manufacturer, which actions or conduct allegedly violate the Act, may seek a declaration and adjudication of its rights by filing with the DHSMV either a: [18]
- Request for an administrative hearing under ch. 120, F.S.; or
- Written objection or notice of protest as prescribed by the Act.

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[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] S. 320.67, F.S.
[15] An "injunction" is a court order requiring a person to do or cease doing a specific action. Legal Information Institute, *Injunction*, https://www.law.cornell.edu/wex/injunction (last visited March 7, 2025).
[16] S. 320.695, F.S.
[17] *Id.*
[18] S. 320.699(1), F.S.

If a written objection or notice of protest is filed with the DHSMV, a hearing must occur no sooner than 180 days, or later than 240 days, from the date of the filing of the first written objection or notice of protest, unless the time is extended by the administrative law judge for good cause shown.[19]

Motor Vehicle Dealer Association Standing

On May 3, 2022, the First District Court of Appeal affirmed a decision by the DHSMV that the Florida Automobile Dealers Association (FADA) lacked standing to challenge a licensee's alleged violations of the Act.[20] Specifically, the court held that, even though FADA's members are motor vehicle dealers, FADA lacked standing because:

- It is not itself a motor vehicle dealer or other statutorily-authorized person or entity that may bring such a challenge; and
- Was not directly and negatively impacted by the licensee's actions or conduct.[21]

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2023	CS/CS/HB 637	Shoaf	Avila	Became law on July 1, 2023.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Civil Justice & Claims Subcommittee				
Commerce Committee				

[19] S. 320.699(2), F.S.
[20] *Fla. Auto. Dealers Ass'n v. Hyundai Motor Am. Corp.*, 337 So. 3d 893, 894 (Fla. 1st DCA 2022), *reh'g denied* (May 3, 2022).
[21] *Id.*

A bill to be entitled

An act relating to motor vehicle manufacturers and franchised motor vehicle dealers; amending s. 320.64, F.S.; prohibiting an applicant or licensee, or common entity thereof, from implementing certain criteria for measuring the sales or service performance of a franchised motor vehicle dealer; prohibiting an applicant or licensee, or common entity thereof, from implementing such criteria without first providing certain written information to the franchised motor vehicle dealer; requiring such information to be provided upon written request of the motor vehicle dealer; prohibiting an applicant or licensee, or common entity thereof, from engaging in certain conduct not in good faith; amending s. 320.641, F.S.; revising conditions under which a discontinuation, cancellation, or nonrenewal of a franchise agreement is considered unfair; amending s. 320.67, F.S.; deleting provisions relating to certain complaints made by certain motor vehicle dealer associations; amending s. 320.695, F.S.; authorizing a motor vehicle dealer association to maintain an action for injunctive relief in the name of the Department of Highway Safety and Motor Vehicles; specifying that certain violations are sufficient for the issuance of

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

an injunction without establishing irreparable harm; amending s. 320.699, F.S.; authorizing a motor vehicle dealer association to seek a declaration and adjudication of its members' rights with respect to certain violations by an applicant or licensee, or common entity thereof; authorizing a motor vehicle dealer with certain standing to file a written objection or notice of protest; providing an effective date.

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

Section 1. Subsection (42) of section 320.64, Florida Statutes, is amended, and subsection (43) is added to that section, to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the

following acts:

(42)(a) The applicant or licensee, or common entity thereof, has established, implemented, or enforced criteria for measuring the sales or service performance of any of its franchised motor vehicle dealers in this state which have a material or adverse effect on any motor vehicle dealer and which:

1. Are unfair, unreasonable, arbitrary, or inequitable; ~~or~~

2. Do not include all relevant and material local and regional criteria, data, and facts. Relevant and material criteria, data, or facts include, but are not limited to, those of motor vehicle dealerships of comparable size in comparable markets. If such performance measurement criteria are based, in whole or in part, on a survey, such survey must be based on a statistically significant and valid random sample; or

3. Are not noticed and explained in writing to the motor vehicle dealer before the beginning of the period for which the dealer's sales or service performance is measured.

(b) The ~~An~~ applicant or~~,~~ licensee, or common entity~~, or an affiliate~~ thereof, has implemented or enforced criteria for measuring the sales or service performance of any of its franchised motor vehicle dealers in this state without, before implementation or enforcement, providing a written description to each such franchised ~~which enforces against any motor vehicle dealer any such performance measurement criteria shall, upon the~~

~~request of the motor vehicle dealer, describe in writing to the~~ motor vehicle dealer in this state of~~, in detail,~~ how the performance measurement criteria were designed, calculated, established, and uniformly applied. Upon written request of a motor vehicle dealer, an applicant or licensee, or common entity thereof, shall provide the motor vehicle dealer all data on which the applicant or licensee, or common entity thereof, relied in designing, calculating, establishing, and uniformly applying any sales or service performance measurement criteria.

(43) The applicant or licensee, or common entity thereof, has engaged in any action, or implemented any policy, standard, rule, practice, or program, that is not in good faith. Conduct not in good faith includes:

(a) Conduct that is in whole or in part dishonest, deceptive, malicious, economically coercive, intimidating, threatening, or motivated by a desire to harm, punish, or adversely affect a motor vehicle dealer; or

(b) Conduct engaged in as retaliation against a motor vehicle dealer in whole or in part because the dealer:

1. Invoked any statutory right created by ss. 320.60-320.70;

2. Asserted that the applicant or licensee, or common entity thereof, has acted in a manner that violates any provision of ss. 320.60-320.70; or

3. Testified, assisted, or participated in any manner in

an investigation, proceeding, or hearing that may directly or indirectly affect the applicant or licensee, or common entity thereof.

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or may adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

Section 2. Subsection (3) of section 320.641, Florida Statutes, is amended to read:

320.641 Discontinuations, cancellations, nonrenewals, modifications, and replacement of franchise agreements.—

(3) Any motor vehicle dealer who receives a notice of intent to discontinue, cancel, not renew, modify, or replace may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement. Agreements and certificates of appointment shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer.

(a) A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair unless:

1. ~~if~~ It is ~~not~~ clearly permitted by the franchise agreement.~~;~~

2. It is ~~not~~ undertaken in good faith.~~;~~

3. It is ~~not~~ undertaken for good cause.~~;~~

4. It ~~or~~ is based on the motor vehicle dealer's ~~an alleged~~ breach of the franchise agreement which is not in fact a material and substantial breach, except where the discontinuation, cancellation, or nonrenewal applies to all same line-make franchised motor vehicle dealers and is otherwise permitted by ss. 320.60-320.70.~~;~~

5. ~~or, if~~ The grounds relied upon for termination, cancellation, or nonrenewal have ~~not~~ been applied in a uniform and consistent manner by the licensee.

(b) If the notice of discontinuation, cancellation, or nonrenewal relates to an alleged failure of the new motor vehicle dealer's sales or service performance obligations under the franchise agreement, the new motor vehicle dealer must first be provided with at least 180 days to correct the alleged failure before a licensee may send the notice of discontinuation, cancellation, or nonrenewal.

(c) A modification or replacement is unfair unless:

1. ~~if~~ It is ~~not~~ clearly permitted by the franchise agreement.~~;~~

2. It is ~~not~~ undertaken in good faith.~~;~~

3. It ~~or~~ is ~~not~~ undertaken for good cause.

The applicant or licensee shall have the burden of proof that such discontinuation, cancellation, nonrenewal, modification, or replacement ~~action~~ is fair and not prohibited.

Section 3. Subsection (1) of section 320.67, Florida Statutes, is amended to read:

320.67 Violations by dealers; complaint; conduct of inquiry; inspection of records; penalties.—

(1) The department shall conduct an inquiry of a licensee relating to any written complaint alleging a violation of any provision of ss. 320.61-320.70 against such licensee made by a motor vehicle dealer with a current franchise agreement issued by the licensee~~, or a motor vehicle dealer association with at least one member with a current franchise agreement issued by the licensee~~.

Section 4. Section 320.695, Florida Statutes, is amended to read:

320.695 Injunction.—In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department, or any motor vehicle dealer or any motor vehicle dealer association in the name of the department and state and for the use and benefit of the motor vehicle dealer or motor vehicle dealer association, may ~~is authorized to~~ make application to any court of competent jurisdiction ~~circuit court of the state~~ for the grant, upon a

hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person from acting as a licensee under the terms of ss. 320.60-320.70 without being properly licensed hereunder, or from violating or continuing to violate any of the provisions of ss. 320.60-320.70, or from failing or refusing to comply with the requirements of this law or any rule or regulation adopted hereunder. Such injunction shall be issued without bond. A single act in violation of ~~the provisions of~~ ss. 320.60-320.70 is ~~shall be~~ sufficient to authorize the issuance of an injunction without the necessity of establishing irreparable harm. However, this statutory remedy is not ~~shall not be~~ applicable to any motor vehicle dealer after final determination by the department under s. 320.641(3).

Section 5. Section 320.699, Florida Statutes, is amended to read:

320.699 Administrative hearings and adjudications; procedure.—

(1) A motor vehicle dealer, a ~~or~~ person with entitlements to or in a motor vehicle dealer, or a motor vehicle dealer association on behalf of a member thereof who is directly and adversely affected by the action or conduct of an applicant or licensee which is alleged to be in violation of any provision of ss. 320.60-320.70~~,~~ may seek a declaration and adjudication of its rights or the rights of such member with respect to the alleged action or conduct of the applicant or licensee by~~:~~

~~(a)~~ filing with the department a request for a proceeding and an administrative hearing which conforms substantially with the requirements of ss. 120.569 and 120.57.~~; or~~

(2)~~(b)~~ A motor vehicle dealer with standing pursuant to s. 320.642(3) may file ~~Filing~~ with the department a written objection or notice of protest pursuant to s. 320.642.

(3)~~(2)~~ If a written objection or notice of protest is filed with the department under subsection (2) ~~paragraph (1)(b)~~, a hearing shall be held not sooner than 180 days or ~~nor~~ later than 240 days after ~~from~~ the date of filing of the first objection or notice of protest, unless the time is extended by the administrative law judge for good cause shown. This subsection shall govern the schedule of hearings in lieu of any other provision of law with respect to administrative hearings conducted by the Department of Highway Safety and Motor Vehicles or the Division of Administrative Hearings, including performance standards of state agencies, which may be included in current and future appropriations acts.

Section 6. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 429 by Rep. Yeager
Motor Vehicle Manufacturers and Franchised Motor Vehicle Dealers

AMENDMENT SUMMARY
March 12, 2025

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

- Removes provisions from the bill that:
  - Prohibit certain manufacturers from conducting sales and service performance measurements that are not noticed and explained in writing.
  - Prohibit manufacturers and their common entities from engaging in certain actions not in good faith.
  - Prohibit retaliation against a motor vehicle dealer who has participated in an investigation, proceeding, or hearing that indirectly affects the manufacturer.
  - Authorize standing rights to motor vehicle dealer associations.
- Clarifies provisions regarding discontinuations, cancellations, nonrenewals, modifications, and replacement of franchise agreements.

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: Industries & Professional Activities Subcommittee

Representative Yeager offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (42) of section 320.64, Florida Statutes, is amended, and subsection (43) is added to that section, to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license of a licensee under s. 320.61 may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, upon proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing, and a licensee or applicant

shall be liable for claims and remedies provided in ss. 320.695 and 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:

(42)(a) The applicant or licensee, or common entity thereof, has established, implemented, or enforced criteria for measuring the sales or service performance of any of its franchised motor vehicle dealers in this state which have a material or adverse effect on any motor vehicle dealer and which:

1. Are unfair, unreasonable, arbitrary, or inequitable; or

2. Do not include all relevant and material local and regional criteria, data, and facts. Relevant and material criteria, data, or facts include, but are not limited to, those of motor vehicle dealerships of comparable size in comparable markets. If such performance measurement criteria are based, in whole or in part, on a survey, such survey must be based on a statistically significant and valid random sample.

(b) The ~~An~~ applicant or~~,~~ licensee, or common entity~~, or an affiliate~~ thereof, has implemented or enforced criteria for measuring the sales or service performance of any of its franchised motor vehicle dealers in this state without, before implementation or enforcement, providing a written description to each franchised ~~which enforces against any motor vehicle dealer any such performance measurement criteria shall, upon the~~

~~request of the motor vehicle dealer, describe in writing to the~~ motor vehicle dealer in this state providing, in detail, how the performance measurement criteria were designed, calculated, established, and uniformly applied.

(43) The applicant or licensee, or common entity thereof, has engaged in an action, or implemented a policy, standard, rule, practice, or program as retaliation against a franchised motor vehicle dealer because the dealer invoked any right pursuant to ss. 320.60-320.70; has asserted that the applicant or licensee, or common entity thereof, has acted in a manner that violates any provision of ss. 320.60-320.70; or has testified, assisted, or participated in any manner in an investigation, a proceeding, or a hearing that may directly affect the applicant or licensee, or common entity thereof.

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or may adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

Section 2. Subsection (3) of section 320.641, Florida Statutes, is amended to read:

320.641 Discontinuations, cancellations, nonrenewals, modifications, and replacement of franchise agreements.—

(3) Any motor vehicle dealer who receives a notice of intent to discontinue, cancel, not renew, modify, or replace may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement. Agreements and certificates of appointment shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer.

(a) A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair unless all of the following apply:

1. ~~if~~ It is ~~not~~ clearly permitted by the franchise agreement;

2. It is ~~not~~ undertaken in good faith;

3. It is ~~not~~ undertaken for good cause;

4. It ~~or~~ is based on the motor vehicle dealer's ~~an alleged~~ breach of the franchise agreement which is ~~not~~ in fact a material and substantial breach, but not if it applies to all same line-make franchised motor vehicle dealers and is otherwise permitted by ss. 320.60-320.70; and

5. ~~or, if~~ The grounds relied upon for discontinuation ~~termination~~, cancellation, or nonrenewal have ~~not~~ been applied in a uniform and consistent manner by the licensee.

(b) If the notice of discontinuation, cancellation, or nonrenewal relates to an alleged failure of the new motor vehicle dealer's sales or service performance obligations under the franchise agreement, the new motor vehicle dealer must first be provided with at least 180 days to correct the alleged failure before a licensee may send the notice of discontinuation, cancellation, or nonrenewal.

(c) A modification or replacement is unfair unless all of the following apply:

1. ~~if~~ It is ~~not~~ clearly permitted by the franchise agreement;

2. It is ~~not~~ undertaken in good faith; and

3. It ~~or~~ is ~~not~~ undertaken for good cause.

(d) The applicant or licensee shall have the burden of proof that any such discontinuation, cancellation, nonrenewal, modification, or replacement ~~action~~ is fair and not prohibited.

Section 3. This act shall take effect July 1, 2025.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to motor vehicle manufacturers and franchised motor vehicle dealers; amending s. 320.64, F.S.; prohibiting an applicant or a licensee, or a

common entity thereof, from implementing a performance objective without adequate notice; requiring that the applicant or licensee, or common entity thereof, provide motor vehicle dealers with the basis for any sales or service performance measurement; prohibiting the applicant licensee, or common entity thereof, from engaging in certain retaliatory or discriminatory conduct; amending s. 320.641, F.S.; revising conditions under which a discontinuation, cancellation, or nonrenewal of a franchise agreement is considered unfair; providing an effective date.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 505	**COMPANION BILL:** SB 722 (Truenow)
TITLE: Location of Equipment Owned by Amusement Business Owner	**LINKED BILLS:** None
SPONSOR(S): Botana	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Intergovernmental Affairs ➤ Commerce

SUMMARY

Effect of the Bill:

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.

Fiscal or Economic Impact:

The bill does not appear to have a fiscal impact on state government, may have an insignificant indeterminate fiscal impact on local governments, and may have a positive economic impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill provides that if a county or municipality has a policy, ordinance, or other measure that addresses lands classified as 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[1] from any amusement business owner whose equipment is placed, parked, or stored on the agricultural land for 6 months or longer. (Section 1)

The bill specifies that the 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. (Section 1)

The bill defines the following terms:

- "Agricultural lands" as those parcels classified by the property appraiser as agricultural lands under s.193.461, 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

[1] 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.

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. (Section 1)

The effective date of the bill is July 1, 2025. (Section 2)

FISCAL OR ECONOMIC IMPACT:

LOCAL GOVERNMENT:

Indeterminate. The bill prohibits local governments from charging amusement business owners for storing their equipment on certain agricultural land; however, this may be an insignificant impact due to the amount of agricultural lands that fall into the particular category.

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.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Agricultural Lands

Florida's Greenbelt Law, also known as s. 193.461, F.S., authorizes agricultural properties to be taxed based on their use value instead of their market value. This law helps preserve farmland and slow development. Lands classified as agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.[2] 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[3] and limits on nuisance complaints related to farming activities.[4]

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.[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]

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[2] S. 193.461, F.S.
[3] S. 163.3162, F.S.
[4] *See* s. 823.14, F.S.
[5] S. 163.3177(6)(a), 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.

Storage of Carnival Equipment

The Florida Department of Agriculture and Consumer Services (DSCS) regulates public fairs and expositions[7] and the safety standards required for amusement rides.[8] 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."[9]
- A temporary amusement ride is defined as "an amusement ride that is regularly relocated, with or without disassembly."[10]

Although there are state regulations in place for the operation of such equipment, there are not state regulations regarding the storage.

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."[11] 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.[12] 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.[13]

Additional Relevant Information

Art. VII, s. 18(b), of the Florida Constitution states that the legislature may not enact any law that would reduce the authority municipalities or counties have to raise revenues in the aggregate, except upon approval of two-thirds of the membership of each house of the legislature.

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[7] "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.

[8] S. 616.242, F.S.

[9] S. 616.242(3)(a), F.S.

[10] S. 616.242(3)(t), F.S.

[11] 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 March 7, 2025).

[12] 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 March 7, 2025).

[13] 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 March 7, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Intergovernmental Affairs Subcommittee				
Commerce Committee				

A bill to be entitled

An act relating to location of equipment owned by an 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 applicability; defining the terms "agricultural lands" and "amusement business owner"; 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 a policy, ordinance, regulation, or other measure that addresses agricultural lands 5 acres or larger if the policy, ordinance, regulation, or other measure requires a monetary exaction from an 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.

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

(2) For purposes of this section, the term:

(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, 2025.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 535	**COMPANION BILL:** SB 606 (Leek)
TITLE: Public Lodging and Public Food Service Establishments	**LINKED BILLS:** None
SPONSOR(S): Johnson	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Criminal Justice ➤ Commerce

SUMMARY

Effect of the Bill:

The bill redefines "transient" and "nontransient occupancy" in the context of public lodging establishments. The bill removes the intention of the parties and the rebuttable presumptions, and defines "transient occupancy" as an occupancy that is temporary and "nontransient occupancy" as an occupancy that is not temporary. The bill redefines "transient establishment" and "nontransient establishment" by removing the intention of the operator.

The bill provides that:

- An operator of a public lodging establishment may remove a guest for failing to make payment or check out before the time specified by the establishment instead of the time agreed upon by both parties.
- A public lodging or public food establishment's written or oral notice to a guest to leave is effective upon delivery whether delivery is in person, telephone, email, or delivered to the guest's unit.

The bill removes the requirement that a law enforcement officer must arrest a guest who refuses to leave an establishment in the presence of the officer. Instead, an officer must remove the guest from the establishment. The law enforcement officer may still arrest the guest, but is not required to do so unless a warrant has been issued.

Fiscal or Economic Impact:

The bill may have a positive fiscal impact on transient public lodging establishments by reducing the need to remove guests through the landlord eviction process.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Transient and Nontransient Occupancy

The bill redefines "transient" and "nontransient occupancy" in the context of public lodging establishments. The bill removes the intention of the parties and the rebuttable presumptions from the definitions. "Transient occupancy" is defined as an occupancy that is temporary, and "nontransient occupancy" as an occupancy that is not temporary. (Section 1)

The bill provides that transient and nontransient occupancies include hotels, motels, vacation rentals, bed and breakfast inns, or timeshare projects. (Section 1)

The bill redefines "transient establishment" and "nontransient establishment" by removing the intention of the operator. The bill also amends the rental time period to determine whether an establishment is transient or nontransient status of establishments from "30 days or one calendar month" to "**30 consecutive days**." (Section 1)

Refusal of Admission and Ejection of Undesirable Guests

The bill provides that:

- An operator of a public lodging establishment may remove a guest for failing to make payment or check out at or before the **time specified by the public lodging establishment** instead of the time agreed upon by both parties.
- A public lodging or public food establishment's written or oral notice to a guest to leave is effective upon delivery whether delivery is in person, telephone, email, or delivered to the guest's unit if the establishment is a public lodging establishment. (Section 2)

The bill removes the requirement that a law enforcement officer must arrest a guest who refuses to leave an establishment in the presence of the officer. Instead, an officer must remove the guest from the establishment. The law enforcement officer may still arrest the guest, but is not required to do so unless a warrant has been issued.

The bill provides an effective date of July 1, 2025. (Section 3)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Public Lodging Establishments

The Division of Hotels and Restaurants within the Department of Business and Professional Regulation is the state agency with regulatory authority of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.[1]

The term "public lodging establishment" includes transient and non-transient public lodging establishments.[2] The principal differences between transient and non-transient public lodging establishments are the number of times that the establishments are rented in a calendar year and the duration of the rentals.

A public lodging establishment is classified as a hotel, motel, vacation rental, non-transient apartment, transient apartment, bed and breakfast inn, or timeshare project if the establishment satisfies specified criteria.[3]

Transient and Nontransient Occupancy

A "transient public lodging establishment" is defined in s. 509.013(4)(a)1., F.S., as:

> 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.

A "non-transient public lodging establishment" is defined in s. 509.013(4)(a)2., F.S., as:

> 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**,

[1] S. 509.032(1), F.S.
[2] S. 509.013(4)(a), F.S.
[3] S. 509.242(1), F.S.

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.

Under current law, occupancy status considers the intent of the parties; however, how this intent is determined, is not specified:[4]

> "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.
>
> "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.

Refusal of Admission and Ejection of Undesirable Guests

An operator of a public lodging or public food establishment may remove a guest or have a guest removed while on the premises of the establishment for:[5]

- illegally possessing or dealing in controlled substances;
- being intoxicated, profane, lewd, or brawling;
- indulging in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment;
- failing to pay rent at the **agreed-upon** rental rate by the **agreed-upon** checkout time;
- failing to check out by the time **agreed upon in writing by the guest and public lodging establishment** at check-in unless an extension of time is agreed to by the public lodging establishment and guest prior to checkout;
- failing to make payment for food, beverages, or services; or
- being, in the opinion of the operator, detrimental to the establishment.

Section 509.141, F.S., provides that an operator of a public lodging or public food establishment may remove a guest by notifying the guest that the establishment no longer desires to entertain him or her and the guest must depart immediately. Notice may be given orally or in writing. If the notice is in writing it must state:[6]

> "You are hereby notified that this establishment no longer desires to entertain you as its guest, and you are requested to leave at once. To remain after receipt of this notice is a misdemeanor under the laws of this state."

Current law does not state when notice is considered delivered.

Requirement for Law Enforcement Officers to Make Arrests

Any guest who remains or attempts to remain at an establishment after being noticed to leave is guilty of a second-degree misdemeanor. An operator may request law enforcement for assistance to remove a guest. At the request of an operator, a law enforcement officer **must arrest** any guest who refuses to depart in the presence of the officer.[7]

In 2015, HomeSuiteHome, an extended-stay public lodging establishment, brought a complaint against the Osceola County Sheriff's Office for failing to arrest guests who refused to depart in the presence of the sheriff's officers.

The court ruled in favor of the Sheriff because the Sheriff did not refuse to arrest guests who refused to leave. Instead, the Sheriff required his officers to determine if guests are transient before making an arrest.[8]

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[4] S. 509.013, F.S.
[5] S. 509.141(1), F.S.
[6] S. 509.141(2), F.S.
[7] S. 509.141(3) and (4), F.S.

The Court ruled that ch. 509, F.S., does not set forth "concrete boundaries (such as length of stay or receipt of mail)" that can be used to determine whether a guest is 'transient' or 'nontransient'". The Court further stated that since there is a rebuttable presumption that the occupancy is **transient** when the guest's unit is not their sole residence, there is also a rebuttable presumption that a guest is **non-transient** when the unit is their sole residence.[9]

The Court further ruled that HomeSuiteHome's agreements requiring guests to promise not to use units as their permanent residence was not enough to rebut this presumption, and it would be improper for the Sheriff's officers to make arrests solely by referring to the agreements.[10]

If a guest is considered "nontransient" instead of "transient" then the establishment will have to go through the Florida Residential Landlord and Tenant Act to remove the guest.[11]

Florida Residential Landlord and Tenant Act
The Residential Landlord and Tenant Act (Act), codified in part II of ch. 83, F.S., governs the rental of a dwelling unit in Florida. In Florida, landlords can evict tenants for reasons such as non-payment of rent, lease violations, or illegal activities. The eviction process involves providing written notice, filing a lawsuit, and obtaining a writ of possession. The process includes the following processes:[12]

- Notice:
  - Landlords must provide written notice to the tenant.
  - The notice must specify the reason for eviction and the timeframe for compliance.
  - The notice time period depends on the reason for eviction.
- Eviction lawsuit:
  - If the tenant does not comply with the notice, the landlord can file an eviction lawsuit in court.
  - The court will schedule a hearing where both parties can present evidence and testimony.
  - If the landlord prevails, the court will issue a writ of possession.
- Writ of possession:
  - The writ of possession orders the sheriff to remove the tenant from the property.
  - The tenant has 24 hours to vacate before the sheriff returns to remove them.

OTHER RESOURCES:

Florida Bar Journal, What Are You: A Hotel Guest, Tenant, or Transient Occupant?

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Brackett
Criminal Justice Subcommittee				
Commerce Committee				

[8] *HSH Eastgate, LLC v. Sheriff of Osceola County, Florida*, 2015 WL 3465795 (M.D. Fla. 2015)
[9] *Id.* at 3-4.
[10] *Id.*
[11] Miguel J. Chamorro, *What Are You: A Hotel Guest, Tenant, or Transient Occupant?*, The Florida Bar (October 2018) https://www.floridabar.org/the-florida-bar-journal/what-are-you-a-hotel-guest-tenant-or-transient-occupant/ (last visited March 9, 2025).
[12] S. 83.56, F.S.

A bill to be entitled

An act relating to public lodging and public food service establishments; amending s. 509.013, F.S.; revising definitions; amending s. 509.141, F.S.; revising notification requirements for removing guests from public lodging and public food service establishments; revising penalty provisions; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) and subsections (11), (12), (14), and (15) of section 509.013, Florida Statutes, are amended to read:

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

(4)(a) "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 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 consecutive 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 less than 30 consecutive days.

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 consecutive 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 consecutive days ~~or 1 calendar month~~.

License classifications of public lodging establishments, and the definitions therefor, are 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.

(11) "Transient establishment" means any public lodging establishment that is rented or leased to guests by an operator for transient occupancy ~~whose intention is that such guests' occupancy will be temporary~~.

(12) "Transient occupancy" means occupancy that is ~~when it is the intention of the parties that the occupancy will be~~ temporary. The term includes the occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, unless a written rental or lease agreement expressly states that the dwelling unit is the sole residence of the guest ~~There is a rebuttable~~

~~presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient~~.

(14) "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator for nontransient occupancy ~~whose intention is that the dwelling unit occupied will be the sole residence of the guest~~.

(15) "Nontransient occupancy" means occupancy that is not ~~when it is the intention of the parties that the occupancy will not be~~ temporary. The term includes the occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, unless a written rental or lease agreement expressly states that the dwelling unit is the sole residence of the guest ~~There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient~~.

Section 2. Section 509.141, Florida Statutes, is amended to read:

509.141 Refusal of admission and ejection of undesirable guests; notice; procedure; penalties for refusal to leave.—

(1) The operator of a ~~any~~ public lodging establishment or public food service establishment may remove or cause to be removed from such establishment, in the manner ~~hereinafter~~ provided for in this section, any guest of the establishment who:

(a) ~~who,~~ While on the premises of the establishment,

illegally possesses or deals in controlled substances as defined in chapter 893 or is intoxicated, profane, lewd, or brawling;

(b) ~~who~~ Indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment;

(c) ~~who,~~ In the case of a public lodging establishment, fails to make payment of rent at the agreed-upon rental rate by the ~~agreed-upon~~ checkout time specified by the public lodging establishment;

(d) ~~who,~~ In the case of a public lodging establishment, fails to check out by the time specified by the ~~agreed upon in writing by the guest and~~ public lodging establishment at check-in, unless an extension of time is agreed to by the public lodging establishment and guest before ~~prior to~~ checkout;

(e) ~~who,~~ In the case of a public food service establishment, fails to make payment for food, beverages, or services; or

(f) ~~who,~~ In the opinion of the operator, is a person the continued entertainment of whom would be detrimental to such establishment.

The admission to, or the removal from, such establishment shall not be based upon race, creed, color, sex, physical disability, or national origin.

(2) The operator of a ~~any~~ public lodging establishment or

public food service establishment shall notify the ~~such~~ guest that the establishment no longer desires to entertain the guest and shall request that the ~~such~~ guest immediately depart from the establishment. The ~~such~~ notice may be given orally or in writing. The notice is effective upon delivery, whether delivery of notice is given in person or by telephone or e-mail, using the contact information provided by the guest, or, with respect to a public lodging establishment, upon delivery to the guest's dwelling unit. If the notice is in writing, it shall be as follows:

"You are hereby notified that this establishment no longer desires to entertain you as its guest, and you are requested to leave at once. To remain after receipt of this notice is a misdemeanor under the laws of this state."

If the ~~such~~ guest has paid in advance, the establishment shall, at the time the ~~such~~ notice is given, tender to the ~~such~~ guest the unused portion of the advance payment; however, the establishment may withhold payment for each full day that the guest has been entertained at the establishment for any portion of the 24-hour period of the ~~such~~ day.

(3) A ~~Any~~ guest who remains or attempts to remain in any such establishment after a request by the operator to depart under subsection (2) commits ~~being requested to leave is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If a guest remains ~~any person is illegally~~ on the premises of a ~~any~~ public lodging establishment or public food service establishment after a request by the operator to depart under subsection (2), the operator of such establishment may call upon a ~~any~~ law enforcement officer of this state for assistance. It is the duty of the ~~such~~ law enforcement officer, upon the request of the ~~such~~ operator, to remove a ~~place under arrest and take into custody for violation of this section any~~ guest who remains on the premises of such an establishment after a request by the operator to depart under subsection (2).

(5) A law enforcement officer may place under arrest and take into custody a guest who violates subsection (3) ~~in the presence of the officer~~. If a warrant has been issued by the proper judicial officer for the arrest of a ~~any~~ violator of subsection (3), the officer shall serve the warrant, arrest the person, and take the person into custody. Upon arrest, with or without warrant, the guest is ~~will be~~ deemed to have given up any right to occupancy or to have abandoned such right of occupancy of the premises, and the operator of the establishment may then make such premises available to other guests. However, the operator of the establishment shall employ all reasonable and proper means to care for any personal property which may be left on the premises by the ~~such~~ guest and shall refund any unused portion of moneys paid by the ~~such~~ guest for the occupancy of the ~~such~~ premises.

Section 3. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 535 by Rep. Johnson
Public Lodging and Public Food Service Establishments

AMENDMENT SUMMARY
March 12, 2025

Amendment 1 by Rep. Johnson (line 59):

- Clarifies that a hotel, motel, vacation rental, bed & breakfast, or timeshare project is **not** a nontransient occupancy **unless** there is a written agreement stating the unit is the rentor's sole residence.
- Provides that a public lodging establishment's specified checkout time for a guest must be in **writing**.
- Provides that a public lodging's notice to a guest to immediately depart must be in **writing** if it's because the guest failed to timely checkout or pay for their unit.

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: Industries & Professional Activities Subcommittee

Representative Johnson offered the following:

Amendment

Remove lines 59-110 and insert:

~~not be~~ temporary. The term does not include the occupancy of a dwelling unit at a hotel, motel, vacation rental, bed and breakfast inn, or timeshare project, as defined in s. 509.242, unless a written rental or lease agreement expressly states that the dwelling unit is the sole residence of the guest ~~There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient~~.

Section 2. Section 509.141, Florida Statutes, is amended to read:

509.141 Refusal of admission and ejection of undesirable

guests; notice; procedure; penalties for refusal to leave.—

(1) The operator of a ~~any~~ public lodging establishment or public food service establishment may remove or cause to be removed from such establishment, in the manner ~~hereinafter~~ provided for in this section, any guest of the establishment who:

(a) ~~who,~~ While on the premises of the establishment, illegally possesses or deals in controlled substances as defined in chapter 893 or is intoxicated, profane, lewd, or brawling;

(b) ~~who~~ Indulges in any language or conduct which disturbs the peace and comfort of other guests or which injures the reputation, dignity, or standing of the establishment;

(c) ~~who,~~ In the case of a public lodging establishment, fails to make payment of rent at the agreed-upon rental rate by the ~~agreed-upon~~ checkout time specified in writing by the public lodging establishment;

(d) ~~who,~~ In the case of a public lodging establishment, fails to check out by the time specified in writing by the ~~agreed upon in writing by the guest and~~ public lodging establishment at check-in, unless an extension of time is agreed to by the public lodging establishment and guest before ~~prior to~~ checkout;

(e) ~~who,~~ In the case of a public food service establishment, fails to make payment for food, beverages, or services; or

(f) ~~who,~~ In the opinion of the operator, is a person the continued entertainment of whom would be detrimental to such establishment.

The admission to, or the removal from, such establishment shall not be based upon race, creed, color, sex, physical disability, or national origin.

(2) The operator of a ~~any~~ public lodging establishment or public food service establishment shall notify the ~~such~~ guest that the establishment no longer desires to entertain the guest and shall request that the ~~such~~ guest immediately depart from the establishment. The ~~such~~ notice may be given orally or in writing. A public lodging establishment requesting a guest to immediately depart because the guest failed to checkout or failed to pay for their dwelling unit by the check-out time must provide the notice in writing via email, text message, or printed paper. The notice is effective upon delivery, whether delivery of notice is given in person or by telephone or e-mail, using the contact information provided by the guest, or, with respect to a public lodging establishment, upon delivery to the guest's dwelling unit. If the notice is in writing, it shall be as follows:

HB 541

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 541	**COMPANION BILL:** SB 676 (Martin)
TITLE: Minimum Wage Requirements	**LINKED BILLS:** None
SPONSOR(S): Chamberlin	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Careers & Workforce ➤ Commerce

SUMMARY

Effect of the Bill:

The bill amends the Florida Minimum Wage Act (Act) to allow employees to opt out of receiving the minimum wage for work-study, internship, preapprenticeship, apprenticeship program, or other similar work-based learning opportunities.

Fiscal or Economic Impact:

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

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill amends the Act to provide specific exemptions from minimum wage requirements for certain employees. The bill provides that employers are not required to pay the minimum wage to employees in a structured work-study, internship, preapprenticeship, or apprenticeship program, or other similar work-based learning opportunity, provided these employees choose to opt out of receiving the minimum wage. The bill outlines two methods for employees to opt out, which include checking a box on an application form or by providing a written acknowledgment to the employer that is signed by the employee. (Section 1)

The effective date of the bill is July 1, 2025. (Section 2)

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

Indeterminate. The bill allows certain private sector employees to opt out of receiving minimum wage.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Fair Labor Standards Act

The federal Fair Labor Standards Act (FLSA), enacted in 1938, provides covered workers with minimum wage, overtime pay, and child labor protections.[1] In 1938, the FLSA established a minimum wage of $.25 an hour. The

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

current federal minimum wage rate is $7.25 an hour, which went into effect July 24, 2009. The FLSA applies to employment within any state in the U.S., the District of Columbia, or any territory or possession of the U.S.[2]

The FLSA covers most private and public sector employees. However, certain employers and employees are exempt from coverage, including individuals with disabilities, youth workers, tipped workers, and executive, administrative, and professional workers. The FLSA covers businesses if the business has annual sales of at least $500,000.[3] It also covers certain individual employees if such employee is engaged in interstate commerce.

The FLSA applies to all:[4]

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

The FLSA includes several exemptions from the federal minimum wage provisions, including:[5]

- Executive, administrative, and professional employees.
- Employees in certain seasonal amusement or recreational establishments, employees in certain small newspapers, seamen employed on foreign vessels, employees engaged in fishing operations, and employees engaged in newspaper delivery.
- Farm workers employed by certain employers.
- Casual babysitters and persons employed as companions for the elderly or infirm.
- Border patrol agents.[6]
- **Tipped employees**, as long as their tips, combined with the employer's cash wage, equal at least the federal minimum wage ($7.25). The minimum cash wage for tipped employees is $2.13 per hour, with the employer able to claim a tip credit of up to $5.12 per hour.[7]
- **Learners, apprentices, and messengers employed primarily in delivering letters and messages, under special certificates issued by the Department of Labor**.[8]

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

The FLSA provides that if states enact worker protections, including minimum wage rates, that are more protective of employees than what is provided by the FLSA, the state law applies.[10] **Consequently, no state law may weaken**

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[2] Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview*, https://crsreports.congress.gov/product/pdf/R/R42713, (last visited March 7, 2025). (The main FLSA provisions and accompanying Department of Labor (DOL) regulations constitute what is commonly known as federal wage and hour laws and federal child labor law.).

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

[4] U.S. Department of Labor, Fair Labor Standards Act Advisor, https://webapps.dol.gov/elaws/whd/flsa/scope/screen10.asp, (last visited March 7, 2025).

[5] 29 U.S.C. § 213. (It also includes separate exemptions from overtime pay.)

[6] *See* Border Patrol Agent Pay Reform Act of 2014, S.1691, 113th Cong, (2014).

[7] 29 U.S.C. § 203(m)(2)(A).

[8] 29 U.S.C. § 214.

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

[10] 29 U.S.C. §218.

the worker protections in the FLSA. However, state laws that impose greater worker protections will supersede those in the FLSA.[11]

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

Florida law does not indicate or allow for wage exceptions for learners, apprentices, or messengers. Thus, the FLSA provisions apply.

Florida's Minimum Wage Contained in Article X, Section 24 of the Florida Constitution

On November 2, 2004, Floridians voted to amend the Florida Constitution by adding a minimum wage provision (Section 24) that established the state minimum wage.[13] Prior to this date, Florida did not have a state minimum wage so the FLSA applied for covered workers. Section 24 provides the amount of the minimum wage and the procedure for calculating increases in the minimum wage.[14] The amendment also provides that "all working Floridians are entitled to be paid a minimum wage sufficient to provide a decent and healthy life, that protects their employers from unfair low wage competition, and that does not force them to rely on taxpayer-funded public services."[15]

On November 3, 2020, Florida voters again approved a constitutional amendment related to the state's minimum wage, Amendment 2, to gradually increase the state's minimum wage to $15 an hour by the year 2026.[16] Pursuant to the passage of Amendment 2, on September 30, 2021, Florida's minimum wage increased to $10 per hour. Each year, thereafter, Florida's minimum wage will increase by $1 until the minimum wage reaches **$15 per hour on September 30, 2026.** Beginning in 2027, the minimum wage will be adjusted annually for inflation, as it had been done from 2004 to 2021.

The Florida Constitution references the FLSA and specifically ties the meaning[17] of "employer," "employee," and "wage," to the meanings established under the FLSA and its implementing regulations.[18] It also indicates that case law, administrative interpretations, and other guiding standards developed under the federal FLSA must guide the construction of Florida's Constitution related to Section 24 and any implementing statutes or regulations.[19]

The FLSA defines:[20]

- "Employer" as "any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."
- "Employee" as "any individual employed by an employer."

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[11] Congressional Research Service, CRS Report R42713, *The Fair Labor Standards Act (FLSA): An Overview, Updated March 8, 2023,* https://crsreports.congress.gov/product/pdf/R/R42713, (last visited March 7, 2025).
[12] U.S. Department of Labor, Consolidated Minimum Wage Table, https://www.dol.gov/agencies/whd/mw-consolidated (last visited March 7, 2025).
[13] Art. X, s. 24, Fla. Const.
[14] Art. X, s. 24(c), Fla. Const.
[15] Art. X, s. 24(a), Fla. Const.
[16] U.S. Department of State, *Notice of Increase to State of Florida's Minimum Wage*, https://www.state.gov/wp-content/uploads/2021/01/2021-01-29-Notice-FL-Minimum-Wage-Increase.pdf (last visited March 7, 2025).
[17] *In re Advisory Opinion to the Atty. Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636, 641–42 (Fla. 2004). ("The proposed amendment does not state that it is adopting the FLSA's *definition* of the term "employee," but provides that it is adopting the *meaning* of the term "employee," which is a much broader concept.")
[18] Art. X, s. 24(b), Fla. Const.
[19] Art. X, s. 24(f), Fla. Const.
[20] 29 U.S.C. §203.

Florida Minimum Wage Act

The Act implements the minimum wage provisions in the Florida Constitution.[21] The Act designates the Department of Commerce (DC) as the state agency that implements the minimum wage requirements, establishes procedures with respect to civil actions alleging violations, and provides that it is the exclusive remedy under state law for violations of Section 24.[22]

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

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

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

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

Eleventh Circuit Court of Appeals

When determining whether a person is considered an employee under the FLSA, certain analyses must be used, which is provided for in the FLSA. Recently, the Eleventh Circuit Court of Appeals adopted a "primary beneficiary analysis" to determine if student registered-nurse anesthetists (SRNAs) were employees under the Fair Labor Standards Act (FLSA), focusing on whether the internship primarily benefited the students or the employer. The case involved 25 former SRNAs who claimed they were entitled to unpaid minimum wages and overtime under the FLSA. The core question was whether these SRNAs, who were participating in a clinical program, were employees or interns, with the FLSA applying only to employees. The Eleventh Circuit adopted a modified version of the "primary beneficiary" test, which examines the "economic reality" of the relationship between the intern and employer to determine who benefits most. The Eleventh Circuit found that the SRNAs were primarily benefiting from the internship, as it was a required part of their education and training program, and therefore they were not considered employees under the FLSA.[27]

[21] Ch. 2005-353, Laws of Fla., codified in s. 448.110, F.S.
[22] S. 448.110(10), F.S. HB 5 (2023) renames the Department of Economic Opportunity as the Department of Commerce; SB 82 (2024), section 220, makes this conforming change in the Florida Minimum Wage Act.
[23] S. 448.110(3), F.S.
[24] S. 448.110(6), F.S.
[25] S. 448.110(7), F.S.
[26] S. 448.110(3), F.S.
[27] Schumann v. Collier Anesthesia, PA, 803 F.3d 1199 (11th Cir. 2015)

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	CS/CS/HB 433	Esposito	Trumbull	Became law on July 1, 2024 and implementation began on September 30, 2026.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Careers & Workforce Subcommittee				
Commerce Committee				

A bill to be entitled

An act relating to minimum wage requirements; amending s. 448.110, F.S.; providing that an employer is not subject to certain minimum wage requirements for specified employees; authorizing employees to opt out of the minimum wage requirements in a specified manner; providing an effective date.

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

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

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

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

(b) An employer is not subject to the minimum wage

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

requirements of this section for an employee who is in a structured work-study, internship, preapprenticeship, or apprenticeship program or other similar work-based learning opportunity and such employee opts out of receiving the minimum wage. The employee may opt out of receiving the minimum wage by:

1. Checking a box on an application form to opt out of the minimum wage requirements; or

2. Providing the employer with a written acknowledgment signed by the employee that the employee is opting out of the minimum wage requirements.

Section 2. This act shall take effect July 1, 2025.

HB 543

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 543	**COMPANION BILL:** SB 940 (McClain)
TITLE: Third-party Reservation Platforms	**LINKED BILLS:** None
SPONSOR(S): Oliver	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Commerce

SUMMARY

Effect of the Bill:

The bill prohibits third-party restaurant reservation platforms in the state. The bill defines a "third-party reservation platform" as any website, mobile application, or internet service that offers reservations at public food service establishments without a contractual relationship with the establishment. The bill prohibits these platforms from listing, advertising, promoting, or selling reservations for on-premises service at public food service establishments. The bill authorizes the Department of Business and Professional Regulation (DBPR), Division of Hotels and Restaurants (Division) to impose civil penalties of up to $1,000 per violation, that may accrue daily.

Fiscal or Economic Impact:

The bill may have an indeterminate fiscal impact on state funds.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill prohibits third-party reservation platforms, as follows:

- Names the act, the "Restaurant Reservation Anti-Piracy Act." (Section 1)
- Defines "third-party reservation platform" as a website, mobile application, or other Internet service that:
  - Offers or arranges for a reservation at a public food service establishment for on-premises service.
  - Is owned and operated by a person other than the owner of the public food service establishment.
  - Does not have a contractual relationship or agreement with the public food service establishment, or its contractual designee, to offer or arrange for a reservation at the public food service establishment for on-premises service.
- Prohibits a reservation at a public food service establishment from being listed, advertised, promoted, or sold through a third-party reservation platform.
- Authorizes the Division to impose a civil penalty to $1,000 for each violation, and specifies that violations accrue on a daily basis. (Section 2)

The effective date of the bill is July 1, 2025. (Section 3)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

Indeterminate. The bill may have an indeterminate fiscal impact on state funds. The bill authorizes the Division to impose civil penalties, which accrue on a daily basis. It is unknown how many violations will occur.

PRIVATE SECTOR:

Indeterminate. The bill may have a positive economic impact on restaurant owners and service workers to the extent that it reduces the number of empty tables that are associated with unauthorized third-party restaurant reservations.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Division of Hotels and Restaurants

The Division[1] is responsible[2] for administering and enforcing laws relating to the licensing, inspection, and regulation of public food service establishments for the purpose of protecting the public health, safety and welfare.[3]

Public Food Service Establishments

A "public food service establishment" is defined as 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 prior to being delivered to another location for consumption.[4]

There are several exclusions from the definition of the term, including:[5]

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty, or temporarily to serve events such as fairs, carnivals, and athletic contests;
- Any eating place maintained and operated by a church or religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests;
- Any eating place located on an airplane, train, bus, or watercraft that is a common carrier;
- 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;
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services;
- Any vending machine that dispenses any food or beverage other than potentially hazardous food;
- Any place of business serving only ice, beverages, popcorn, and prepackaged items; and
- Any research and development test kitchen limited to use by employees and not open to the general public.

The regulation of public food service establishments is preempted to the state.[6]

Third-Party Reservation Platforms

Third-party reservation platforms are not currently regulated by the State of Florida. According to reports, scalping reservations has historically been an issue within the restaurant industry; however, recently, third-party websites and bots[7] have made the problem much worse. In many cases, the reservations do not sell and thus, become a no-

[1] Florida Department of Business & Professional Regulation, *Division of Hotels and Restaurants*, https://www2.myfloridalicense.com/hotels-restaurants/ (last visited March 8, 2025).
[2] *See* s. 509.032, F.S.
[3] S. 509.032(1), F.S.
[4] S. 509.013(5)(a), F.S.
[5] S. 509.013(5)(b), F.S.
[6] S. 509.032(7), F.S.
[7] Cambridge Online Dictionary defines a "bot" as "a computer program that works automatically, especially one that searches for and finds information on the internet: Criminals create networks of bots that roam the internet infecting PCs with malware."

show, which means the table stays empty, the restaurant loses money, and the service workers lose out on their tips. In addition, such reservations can be made with fake names, which can cause confusion for the businesses.[8]

New York State
Recently, the State of New York passed a bill that prohibits third-party restaurant reservation services from arranging unauthorized restaurant reservations with food service establishments. The law, which became effective February 17, 2025, prohibited listing or selling reservations on a website or mobile application by persons who do not have a written agreement with the restaurant to include its reservations, and established civil penalties of up to $1,000 per violation per day.[9]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Commerce Committee				

[8] Gothamist, *New York law aims to kill 'black market' for restaurant reservations*, https://gothamist.com/news/new-york-law-aims-to-kill-black-market-for-restaurant-reservations (last visited March 8, 2025).
[9] NY Assembly Bill A10215A (2024).

A bill to be entitled

An act relating to third-party reservation platforms; providing a short title; creating s. 509.105, F.S.; defining the term "third-party reservation platform"; prohibiting a reservation at a public food service establishment from being listed, advertised, promoted, or sold through a third-party reservation platform; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to impose a civil penalty not to exceed a specified amount for a violation of this act or of a division rule; providing that such violations to accrue on a specified time and for certain establishments; providing an effective date.

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

Section 1. This act may be cited to as the "Restaurant Reservation Anti-Piracy Act."

Section 2. Section 509.105, Florida Statutes, is created to read:

509.105 Third-party reservation platforms prohibited.—

(1) As used in this section, the term "third-party reservation platform" means a website, mobile application, or other Internet service that:

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

(a) Offers or arranges for a reservation at a public food service establishment for on-premises service.

(b) Is owned and operated by a person other than the owner of the public food service establishment.

(c) Does not have a contractual relationship or agreement with the public food service establishment, or its contractual designee, to offer or arrange for a reservation at the public food service establishment for on-premises service.

(2) A reservation at a public food service establishment may not be listed, advertised, promoted, or sold through a third-party reservation platform.

(3) The division may impose a civil penalty on a third-party reservation platform in an amount not to exceed $1,000 for each violation of this section or of a division rule. Violations under this subsection shall accrue on a daily basis for each day and for each food service establishment in which there has been a violation of this section or rules of the division.

Section 3. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 543 by Rep. Oliver
Third-party Reservation Platforms

AMENDMENT SUMMARY
March 12, 2025

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

- Clarifies the definition of "third-party reservation platform."
- Provides an exception for certain third-party reservation platforms that arrange for reservations at food service establishments in certain conditions at no cost to the customer.
- Clarifies the prohibition on reservations using a third-party reservation platform.
- Clarifies that violations accrue on a daily basis for each reservation.

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: Industries & Professional Activities Subcommittee

Representative Oliver offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. This act may be cited to as the "Restaurant Reservation Anti-Piracy Act."

Section 2. Section 509.105, Florida Statutes, is created to read:

509.105 Third-party reservation platforms prohibited.—

(1) As used in this section, the term "third-party reservation platform" means a website, mobile application, or other Internet service that satisfies all of the following:

(a) Offers or arranges for a reservation at a public food service establishment for on-premises service.

(b) Is owned and operated by a person other than the owner of the public food service establishment.

(c) Does not have a contractual relationship or agreement with the public food service establishment, or its contractual designee, to offer or arrange for a reservation at the public food service establishment for on-premises service.

(2) A third-party reservation platform does not include a contractual designee of an individual customer which arranges for a personal and non-transferrable reservation at a food service establishment at the request of the customer and at no cost to the customer, provided that the designee shares the individual customer's contact information with the food service establishment, allows the food service establishment to confirm the reservation with the individual customer, and honors requests from the food service establishment to opt out of future reservations created by the designee.

(3) A reservation at a public food service establishment may not be listed, advertised, promoted, facilitated, sold, or otherwise enabled through a third-party reservation platform.

(4) The division may impose a civil penalty on a third-party reservation platform in an amount not to exceed $1,000 for each violation of this section or of a division rule. Violations under this subsection shall accrue on a daily basis for each day and each reservation for each food service establishment in

which there has been a violation of this section or rules of the division.

Section 3. This act shall take effect July 1, 2025.

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

Between lines 7 and 8, insert:

providing an exception;

HB 551

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 551	**COMPANION BILL:** SB 1078 (McClain)
TITLE: Fire Prevention	**LINKED BILLS:** None
SPONSOR(S): Borrero	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Intergovernmental Affairs ➤ Commerce

SUMMARY

Effect of the Bill:

The bill expands the types of fire alarm system projects eligible for the simplified building permit process. The bill requires local governments to:

- issue simplified building permits within a certain period;
- establish a simplified permitting process by a certain date; and
- reduce permit fees when they fail to meet statutory deadlines.

The bill repeals the requirement for local governments to perform at least one inspection for simplified building permit projects. The bill allows contractors to start work immediately after submitting a completed application.

The bill provides that local amendments to the Florida Fire Prevention Code are immediately rescinded if they are not adopted in accordance with Florida Statutes, and provides that local fire marshals may be subject to discipline for enforcing rescinded amendments.

The bill also amends the items required to be in a summary inspection report for a fire hydrant or fire protection system.

Fiscal or Economic Impact:

The bill may have a positive fiscal impact on contractors who use the simplified permitting process by allowing them to start work immediately after submitting a completed application. It is unknown if the bill will have an economic impact on local governments.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

Simplified Permitting Processes

The bill redefines "fire alarm system project" to include replacing an existing fire alarm panel with the same make and model, which will make such projects eligible for the simplified building permit process. (Section 1)

The bill defines the term "alteration" which was previously undefined. The bill defines "alteration" as to "add, install, relocate, replace, or remove." (Section 1)

The bill provides that a local enforcement agency must issue a building permit for an eligible fire alarm or fire sprinkler project within two (2) business days of the completed application being submitted. A contractor may begin work immediately after submitting the completed application. (Section 1)

The bill repeals the requirement that a local enforcement agency must perform at least one inspection of the fire alarm system or fire sprinkler system project. However, if a local enforcement agency requires an inspection then it must perform the inspection within 24 hours after the inspection is requested. (Section 1)

The bill requires contractors to provide requested additional documentation to the local enforcement agency within four (4) days of the local enforcement agency's inspection. However, a local enforcement agency may not require a contractor to provide additional documents or plans reviews that are outside the scope of the permitted work. (Section 1)

The bill requires local governments to reduce their building permit fees by 10% for each business day that they fail to meet a simplified permitting process deadline unless:

- The parties agree in writing to a reasonable extension;
- The delay is caused by the permit applicant; or
- The delay is attributable to a force majeure or other extraordinary circumstance.

Each 10% reduction is based on the original amount of the permit fee. (Section 1)

The bill requires local enforcement agencies to establish a simplified permitting process by October 1, 2025. (Section 1)

Local Amendments to the Florida Fire Prevention Code

The bill provides that if a county or municipality fails to adopt a local amendment to the Florida Fire Prevention Code in accordance with current law, the local amendment is **immediately** rescinded. (Section 2)

A local fire marshal is subject to discipline if a county or municipality enforces a rescinded local amendment. (Section 2)

Fire Hydrant and Fire Protection System Inspections

The bill provides that the uniform summary inspection report must list the total number of deficiencies discovered during the inspection instead of a brief summary of each deficiency or impairment. (Section 3)

The bill also removes the requirement that the procedure to submit summary inspection reports to a local authority may require a contractor to submit information contained in their detailed inspection report. (Section 3)

The bill provides an effective date of July 1, 2025. (Section 4)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Simplified Permitting Process

Standard Building Permit Process

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.[1] Every local government must enforce the Florida Building Code and issue building permits.[2] A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.[3]

[1] S. 553.72, F.S.
[2] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[3] S. 468.603(2), F.S; S. 202 of the Eighth edition of the Florida Building Code (Building).

Current law requires local governments to review alarm, electrical, plumbing, and mechanical building permit applications within a specific time-period of receiving the applications:[4]

When a local government receives an application for one of the above building permits, it must approve, approve with conditions, or deny a building permit application following receipt of a completed and sufficient application to the following timelines, unless the applicant waives such limitation in writing:[5]

- Within 30 business days if the structure is less than 7,500 square feet.
- Within 60 business days if the structure is more than 7,500 square feet.

If a local government fails to meet one of the deadlines, it must reduce the building permit fee by ten (10) percent for each business day that it fails to meet the deadline. Each ten (10) percent reduction is based on the original amount of the building permit fee, unless:[6]

- the parties agree to an extension of time;
- the delay is caused by the applicant; or
- the delay is attributable to a force majeure or other extraordinary circumstances.

Simplified Building Permit Process

Section 553.793, F.S., provides an expedited permitting process for certain fire alarm system projects and fire sprinkler projects. The process removes the time required to review plans prior to starting work.

The law prohibits a local enforcement agency from requiring a contractor to submit building plans or specifications in order to obtain a permit for a fire alarm system or fire sprinkler project, but a local enforcement agency is still authorized to require a contractor to submit a completed application and a payment for such permit.[7]

A "fire alarm system project" is defined as a fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices, or the installation or replacement of a fire communicator connected to an existing fire alarm control panel in an existing commercial, residential, apartment, cooperative, or condominium building.[8]

A "fire sprinkler system project" is defined as a fire protection system alteration of a total of 20 or fewer fire sprinklers in which the sprinklers are of the same K-factor and located in spaces where there is no change of hazard classification or increased system coverage area, or the installation or replacement of an equivalent fire sprinkler system component in an existing commercial, residential, apartment, cooperative, or condominium building.[9]

The term "alteration" is not defined.

A local enforcement agency must require at least one inspection of a fire alarm system or fire sprinkler project to ensure the work complies with the applicable codes and standards. If a project fails an inspection, the contractor must take corrective action as necessary to pass inspection.[10]

The contractor must keep a copy of the plans and specifications at the worksite, and make them available to the inspector at each inspection.[11]

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[4] S. 553.792(1), F.S.
[5] *Id.*
[6] *Id.*
[7] S. 553.7932(2), F.S.
[8] S. 553.7932(1), F.S.
[9] *Id.*
[10] S. 553.7932(4), F.S.
[11] S. 553.7932(5), F.S.

The simplified permitting process does not require local enforcement agencies to issue a permit within a certain time period.

Fire Alarm Panel

A "fire alarm panel" or "control unit" serves as the brain of a fire alarm system. It monitors all the inputs, i.e. smoke or heat detection, into the system and controls all of the outputs, i.e. alarms.[12]

Local Amendments to the Florida Fire Prevention Code

Florida Fire Prevention Code

Chapter 633, F.S., is Florida's fire prevention and control law, and it designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety.[13]

Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors.

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities.[14]

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code. These local enforcing authorities may adopt more stringent fire safety standards, subject to certain requirements, but may not enact fire safety ordinances that conflict with ch. 633, F.S., or any other state law.[15]

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and rules within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.[16]

Each county, municipality, and special district with fire safety enforcement responsibilities is also required to employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.[17]

Local Amendments to the Florida Fire Prevention Code

Counties, municipalities, and special districts may adopt more stringent safety standards by:[18]

- Holding a public meeting that has been advertised in a newspaper of general circulation at least 10 days before the hearing;
- Deciding after the meeting that there is a need to strengthen the Fire Code.
    - The determination must be based upon a review of the local conditions by the local governing body, which demonstrates that local conditions require the more stringent standards.
- Providing a procedure allowing substantially affected parties to challenge the validity of such standards.
    - A challenging party is entitled to a hearing within 45 days and has the burden of proof.

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[12] Shawn Mahoney, *A Guide to Fire Alarm Basics*, NFPA, (March 3, 2021) https://www.nfpa.org/news-blogs-and-articles/blogs/2021/03/03/a-guide-to-fire-alarm-basics (last visited March 7, 2024).
[13] S. 633.104, F.S.
[14] S. 633.202, F.S.
[15] Ss. 633.108, 633.208, and 633.214, F.S.
[16] S. 633.118, F.S.
[17] S. 633.216(1), F.S.
[18] Ss. 633.202, and 633.208, F.S.

- Sending the amendment to the State Fire Marshal and the Florida Building Commission within 30 days of adopting the amendment.

Discipline

The State Fire Marshal may discipline fire safety inspectors by denying, refusing to renew, issuing fines not to exceed $1,000, placing on probation, suspending, or revoking their certificate if the State Fire Marshal finds that the fire safety inspector has violated ch. 633, F.S. , including:[19]

- Violating Fire Prevention laws or any rule or order of the State Fire Marshal.
- Filing false reports or falsifying records related to their certificate.
- Failing to properly enforce applicable fire codes or permit requirements within this state which the certificate holder knows are applicable by "committing willful misconduct, gross negligence, gross misconduct, repeated negligence, or negligence resulting in a significant danger to life or property."

Fire Hydrant and Fire Protection System Inspections

The State Fire Marshal has the right to inspect any fire hydrants or fire protection systems in order to determine that such system meets the standards set forth by the state. Inspections may also be conducted by independent contractors.[20]

Any person who wishes to inspect fire hydrants or fire protection systems must have a fire protection system's contractor license issued by the State Fire Marshal.[21]

If a fire protection system contractor inspects a fire hydrant or a fire protection system, the contractor must use a uniform summary inspection report adopted by the State Fire Marshall. A contractor must provide a copy of the summary inspection report to the local authority and the building owner or hydrant owner. An inspector also completes a detailed report in addition to the uniform summary inspection report.[22]

The uniform summary inspection report must include the:[23]

- Address where the fire protection system or hydrant is located;
- Company and person conducting the inspection and their license number;
- Date of the inspection; and
- Fire protection system or hydrant inspection status, **including a brief summary of all the deficiencies discovered during the inspection including**:
  - Deficiency.
  - Critical deficiency.
  - Noncritical deficiency; or
  - Impairment.

The State Fire Marshal must adopt rules for contractors to submit uniform summary inspection reports to local governments. The procedures must allow a contractor to attach additional documents with the uniform summary inspection report, including a physical copy of the contractor's detailed inspection report. However, a submission procedure **may not** require a contractor to submit information contained within the detailed inspection report **unless the information is required to be included in the uniform summary inspection report**.[24]

[19] S. 633.106, and 633.216(5), F.S.
[20] S. 633.312, F.S.
[21] Ss. 633.312 and 633.318, F.S.
[22] S. 633.312(3), F.S.
[23] S. 633.312(3)(b), F.S.
[24] *Id.*

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Brackett
Intergovernmental Affairs Subcommittee				
Commerce Committee				

A bill to be entitled

An act relating to fire prevention; amending s. 553.7932, F.S.; defining the term "alteration"; revising the definition of the term "fire alarm system project"; requiring a local enforcement agency to issue a permit for a fire alarm system project or fire sprinkler system project within a specified time period; authorizing work to commence immediately; requiring an inspection required by the local enforcement agency of a fire alarm system project or fire sprinkler system project within a specified time period; requiring certain plans and specifications to be available for an onsite plans review during an inspection; requiring a contractor to provide additional documentation, if necessary, within a specified timeframe; prohibiting a local enforcement agency from requiring additional plans reviews or documentation outside the scope of the permitted work; requiring permit fees to be reduced by a certain percentage if a local government fails to meet certain deadlines; providing exceptions; requiring local enforcement agencies to establish a simplified permitting process by a specified date; amending s. 633.202, F.S.; specifying a condition under which a local amendment to the Florida Fire Prevention Code is

immediately rescinded; providing disciplinary action under certain circumstances; amending s. 633.312, F.S.; requiring a uniform summary inspection report to include the total number of deficiencies found during the inspection of a fire protection system or hydrant; removing the requirement for a brief summary of such deficiencies; removing an exception from submitting certain information within a detailed inspection report; providing an effective date.

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

Section 1. Paragraphs (a) through (d) of subsection (1) of section 553.7932, Florida Statutes, are redesignated as paragraphs (b) through (e), respectively, present paragraph (c) of subsection (1), subsections (3) and (4), and paragraphs (a) and (b) of subsection (5) are amended, and subsections (6) and (7) are added to that section, to read:

553.7932 Simplified permitting processes.—

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

(a) "Alteration" means to add, install, relocate, replace, or remove.

(d) ~~(c)~~ "Fire alarm system project" means a fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices; ~~, or~~ the installation or replacement of

a fire communicator connected to an existing fire alarm control panel in an existing commercial, residential, apartment, cooperative, or condominium building; or the replacement of an existing fire alarm panel using the same make and model as the existing panel.

(3) A local enforcement agency must issue a permit for a fire alarm system project or fire sprinkler system project in person or electronically within 2 business days after submission of a completed application. A contractor may commence work authorized by the permit immediately after submission of a completed application.

(4) If a local enforcement agency requires an inspection, the ~~a~~ local enforcement agency must provide such inspection within 24 hours after such inspection is requested, ~~require at least one inspection of a fire alarm system project or fire sprinkler system project~~ to ensure compliance with applicable codes and standards. If a fire alarm system project or fire sprinkler system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.

(5)(a) For a fire alarm system project, a contractor must keep a copy of the plans and specifications at the fire alarm system project worksite and make such plans and specifications available to the inspector for an onsite plans review at each inspection. If the local enforcement agency determines that it needs additional documentation, the contractor must provide such

documentation in paper or electronic form to the local enforcement agency within 4 business days after the inspection. The local enforcement agency may not require additional plans reviews or documentation of areas or devices outside the scope of permitted work.

(b) For a fire sprinkler system project ~~to alter an existing fire protection system~~, a contractor must keep a copy of the plans and specifications at the fire sprinkler system project worksite and make such plans and specifications available to the inspector at each inspection. If the local enforcement agency determines that it needs additional documentation, the contractor must provide such documentation in paper or electronic form to the local enforcement agency within 4 business days after the inspection. The local enforcement agency may not require additional plans reviews or documentation of areas or devices outside the scope of permitted work.

(6) A local government that fails to meet a deadline under this section must reduce the permit fee by 10 percent for each business day after such failure, unless the parties agree in writing to a reasonable extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstances. Each 10-percent reduction shall be based on the original amount of the permit fee, unless the parties agree to an extension of time.

(7) By October 1, 2025, a local enforcement agency must

establish a simplified permitting process that complies with this section.

Section 2. Subsection (10) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(10)(a) Notwithstanding other provisions of this chapter, if a county or a municipality within that county adopts an ordinance providing for a local amendment to the Florida Fire Prevention Code and that amendment provides a higher level of protection to the public than the level specified in the Florida Fire Prevention Code, the local amendment becomes effective without approval of the State Fire Marshal and is not rescinded pursuant to this section, provided that the ordinance meets one or more of the following criteria:

1.~~(a)~~ The local authority has adopted, by ordinance, a fire service facilities and operation plan that outlines goals and objectives for related equipment, personnel, and capital improvement needs of the local authority related to the specific amendment for the next 5 years;

2.~~(b)~~ The local authority has adopted, by ordinance, a provision requiring proportionate reduction in, or rebate or waivers of, impact or other fees or assessments levied on buildings that are built or modified in compliance with the more stringent firesafety standards required by the local amendment; or

3.~~(c)~~ The local authority has adopted, by ordinance, a growth management plan that requires buildings and structures to be equipped with more stringent firesafety requirements required by the local amendment when these firesafety requirements are used as the basis for planning infrastructure development, uses, or housing densities.

(b) If a county or municipality fails to adhere to the requirements of this section when adopting an ordinance for a local amendment to the Florida Fire Prevention Code, the local amendment is rescinded immediately. If a county or municipality continues to enforce an ordinance that has been rescinded, the local fire marshal is subject to disciplinary action under s. 633.106.

(c) Except as provided in s. 633.206, the local appeals process shall be the venue if there is a dispute between parties affected by the provisions of the more stringent local firesafety amendment adopted as part of the Florida Fire Prevention Code pursuant to the authority in this subsection. Local amendments adopted pursuant to this subsection shall be deemed local or regional variations and published as such in the Florida Fire Prevention Code. The act of publishing locally adopted firesafety amendments to the Florida Fire Prevention Code may not be construed to mean that the State Fire Marshal approves or denies the authenticity or appropriateness of the locally adopted firesafety provision, and the burden of

protecting the local firesafety amendment remains solely with the adopting local governmental authority.

Section 3. Paragraph (b) of subsection (3) of section 633.312, Florida Statutes, is amended to read:

633.312 Inspection of fire control systems, fire hydrants, and fire protection systems.—

(3)

(b) The State Fire Marshal shall adopt rules to implement a uniform summary inspection report and submission procedures to be used by all third-party vendors and local authorities having jurisdiction. For purposes of this section, a uniform summary inspection report must record the address at which ~~where~~ the fire protection system or hydrant is located, the company and person conducting the inspection and their license number, the date of the inspection, and the fire protection system or hydrant inspection status, including the total number of deficiencies found ~~a brief summary of each deficiency, critical deficiency, noncritical deficiency, or impairment found~~. A contractor's detailed inspection report is not required to follow the uniform summary inspection report format. The State Fire Marshal shall establish by rule a submission procedure for each means provided under paragraph (a) by which a local authority having jurisdiction may accept uniform summary inspection reports. Each of the submission procedures must allow a contractor to attach additional documents with the submission

of a uniform summary inspection report, including a physical copy of the contractor's detailed inspection report. A submission procedure may not require a contractor to submit information contained within the detailed inspection report ~~unless the information is required to be included in the uniform summary inspection report~~.

Section 4. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 551 by Borrero
Fire Prevention

AMENDMENT SUMMARY
March 12, 2025

Amendment 1 by Rep. Borrero (line 62):

- **Expands** the time-period that local governments have to perform an inspection from within 24 hours after receiving a request to within three (3) business days of receiving a request.
- Provides that contractors must provide additional documentation for fire alarm system and fire sprinkler projects within four (4) days of receiving a request from the local government **or** (4) days after the inspection, whichever is later.
- Provides that a local government must refund 10 percent of a building permit fee for missing a required deadline **instead** of reducing the fee by 10 percent.
- Provides that a local government only has to refund 10 percent of a fee if they fail to issue a building permit or perform an inspection for certain fire alarm system and fire sprinkler projects within the required timeframe.
- **Removes** the bill's provision providing that a local fire marshal's license is subject to discipline if they enforce a rescinded local amendment to the Fire Code.
- Provides that a municipality may only enforce a local amendment to the Fire Code if it has been sent to the Florida Building Commission and the State Fire Marshal as of the date the contractor submitted the bid for a permit.

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: Industries & Professional Activities Subcommittee

Representative Borrero offered the following:

Amendment (with title amendment)

Remove lines 62-152 and insert:

(4) The ~~a~~ local enforcement agency must provide an inspection within 3 business days after such inspection is requested ~~require at least one inspection of a fire alarm system project or fire sprinkler system project~~ to ensure compliance with applicable codes and standards. If a fire alarm system project or fire sprinkler system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.

(5)(a) For a fire alarm system project, a contractor must keep a copy of the plans and specifications at the fire alarm

system project worksite and make such plans and specifications available to the inspector for an onsite plans review at each inspection. If the local enforcement agency determines that it needs documents for recording purposes, the contractor must provide such documentation in paper or electronic form to the local enforcement agency within 4 business days after the inspection or 4 days after the documentation is requested, whichever is later. The local enforcement agency may not require additional plans reviews or documentation of areas or devices outside the scope of permitted work, as needed on permit applications.

(b) For a fire sprinkler system project ~~to alter an existing fire protection system~~, a contractor must keep a copy of the plans and specifications at the fire sprinkler system project worksite and make such plans and specifications available to the inspector at each inspection. If the local enforcement agency determines that it needs additional documents for recording purposes, the contractor must provide such documentation in paper or electronic form to the local enforcement agency within 4 business days after the inspection or 4 days after the documentation is requested, whichever is later. The local enforcement agency may not require additional plans reviews or documentation of areas or devices outside the scope of permitted work, as needed on permit applications.

(6) A local government that fails to meet a deadline under subsection (3) or subsection (4) must refund the permit fee by 10 percent for each business day after such failure, unless the local government and contractor agree in writing to a reasonable extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstances. Each 10 percent refund shall be based on the original amount of the permit fee.

(7) By October 1, 2025, a local enforcement agency must establish a simplified permitting process that complies with this section.

Section 2. Subsection (9) of section 633.202, Florida Statutes, is amended to read:

633.202 Florida Fire Prevention Code.—

(9)(a) The State Fire Marshal shall make rules that implement this section and ss. 633.104 and 633.208 for the purpose of accomplishing the objectives set forth in those sections.

(b) If a county or municipality fails to adhere to the requirements of this section when adopting an ordinance for a local amendment to the Florida Fire Prevention Code, the local amendment is null and void. A municipality may enforce only an ordinance that has been sent to the Florida Building Commission and the State Fire Marshal pursuant to subsection (8) as of the date that the bid for a permit was submitted.

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

Remove lines 9-27 and insert:

requiring the local enforcement agency to provide an inspection within a specified timeframe; requiring that certain plans and specifications be available for an onsite plans review during an inspection; requiring a contractor to provide additional documents, if necessary, within a specified timeframe; prohibiting a local enforcement agency from requiring additional plans reviews or documentation outside the scope of the permitted work; requiring that permit fees be refunded by a certain percentage if a local government fails to meet certain deadlines; providing exceptions; requiring local enforcement agencies to establish a simplified permitting process by a specified date; amending s. 633.202, F.S.; specifying a condition under which a local amendment to the Florida Fire Prevention Code is null and void; providing that a municipality may enforce only an ordinance that has been sent to the Florida Building Commission and the State Fire Marshal as of the date that the bid for a permit was submitted; amending s. 633.312,

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 641	**COMPANION BILL:** SB 764 (Wright)
TITLE: Food Additives	**LINKED BILLS:** None
SPONSOR(S): Tendrich, Gonzalez Pittman	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Commerce

SUMMARY

Effect of the Bill:

The bill requires food or drink products intended for human consumption that contain synthetic color additives when used as a food additive to display a warning on their packaging. The bill establishes a graduated scale of penalties for manufacturers, retailers, and distributors who fail to comply with the warning requirements. The bill requires fines to be deposited in the Department of Agriculture and Consumer Services (DACS) General Inspection Trust Fund, and requires DACS to conduct inspections.

The effective date of the bill is upon becoming law.

Fiscal or Economic Impact:

None

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill requires food or drink products intended for human consumption that contain synthetic color additives, when used as a food additive, to display a warning on their packaging, stating, *"WARNING: This product contains synthetic colors, which may have an adverse effect on activity and attention in children."* The bill allows manufacturers to use adhesive stickers for the warning until December 31, 2028. By January 1, 2029, the warning must be printed directly on the packaging. The bill outlines specific synthetic color additives that are covered under this requirement, including Blue 1, Blue 2, Green 3, Red 40, Yellow 5, Yellow 6, and titanium dioxide. (Section 1)

The bill establishes a graduated scale of penalties for manufacturers, retailers, and distributors who fail to comply with the warning requirements. Manufacturer fines range from $1,000 for a first offense, $2,500 for a second offense, and $5,000 for third or subsequent offenses, while retailer and distributor fines range from a written warning for a first offense, citation for corrective action for a second offense, $7,500 for a third offense, $1,000 for a fourth offense, and up to $2,500 for fifth or subsequent offenses. The bill requires fines to be deposited in the DACS General Inspection Trust Fund, and requires DACS to conduct inspections as part of its regular food and drink product inspections requirements under the Act. (Section 1)

The effective date of the bill is upon becoming law. (Section 2)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

Indeterminate. The bill may have an indeterminate negative impact on state government. The bill establishes a graduated scale of fines for manufacturers, retailers, and distributors who fail to comply with the warning requirements, requires fines to be deposited in the DACS General Inspection Trust Fund, and requires DACS to conduct inspections. It is unknown how many violations and inspections will occur.

PRIVATE SECTOR:

Indeterminate. The bill may have an indeterminate negative fiscal impact on the private sector. The bill establishes a graduated scale of penalties for manufacturers, retailers, and distributors who fail to comply with the warning requirements, and requires DACS to conduct inspections. It is unknown how many violations and inspections will occur.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Florida Color Additive Regulations

The purpose of the Florida Food Safety Act (Act)[1] is to safeguard and protect the consuming public from product use and merchandising deceit regarding the intrastate commerce of food. The Act is also meant to promote conformance with the Federal Food, Drug, and Cosmetic Act,[2] Agriculture Marketing Act of 1946,[3] and Federal Trade Commission Act.[4][5]

DACS is the agency responsible for the enforcement of the production, manufacture, transportation, and sale of food through the Act. DACS's Division of Food Safety (Division) is directly responsible for assuring the public of a safe, wholesome, and properly represented food supply.[6] The division accomplishes this through the permitting[7] and inspection[8] of food establishments,[9] the inspection and evaluation of food products, and the performance of specialized laboratory testing on a variety of food products sold or produced in Florida.[10] The Division also proactively monitors food from manufacturing and distribution to retail.[11]

As part of its responsibilities, DACS can impose a variety of disciplinary actions against food establishments for specified violations.[12] This includes, but is not limited to, revoking or suspending[13] the permit of a food establishment or imposing Class II[14] administrative fines.[15] DACS, or its duly authorized agent, can also issue and

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[1] *See* ch. 500, F.S.
[2] 21 U.S.C. §§ 301-399d.
[3] 7 U.S.C. §§ 1621-1629.
[4] 5 U.S.C. §§ 41-58, as amended.
[5] S. 500.02, F.S.
[6] FDACS, *Division of Food Safety*, https://www.fdacs.gov/Divisions-Offices/Food-Safety (last visited March 8, 2025).
[7] S. 500.12, F.S.
[8] S. 500.147, F.S.
[9] S. 500.03(1)(p), F.S., defines "food establishment" as a factory, food outlet, or other facility manufacturing, processing, packing, holding, storing, or preparing food or selling food at wholesale or retail. The term does not include a business or activity regulated under s. 413.051, s. 500.80, chapter 509, or chapter 601. The term includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.
[10] S. 500.09(6), F.S.
[11] S. 500.81(3)(b)1., F.S.
[12] S. 500.121, F.S.
[13] *Id.*
[14] The fine for each Class II violation cannot exceed $5,000. S. 570.971(1)(b), F.S.
[15] S. 500.121, F.S.

enforce a stop-sale, stop-use, removal, or hold order if DACS or its agent finds any food, food processing equipment, area, or food storage area is in violation of the Florida Food Safety Act.[16]

The Act deems food to be adulterated if it bears or contains a color additive,[17] which is unsafe.[18] Any color additive is deemed unsafe, unless there is in effect a regulation limiting the quantity of such substance, and the use conforms to the terms prescribed by the regulation.[19]

The Act deems food to be misbranded if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. However, to the extent that compliance is impracticable, DACS is authorized to establish exemptions from this labeling requirement.

The Act provides the following prohibitions regarding adulterated or misbranded food:[20]

- The manufacture, sale or delivery, holding or offering for sale of any food that is adulterated or misbranded.
- The adulteration or misbranding of any food.
- The receipt in commerce of any food that is adulterated or misbranded, and the delivery for pay or otherwise.

Adulterated or misbranded food are subject to seizure and condemnation by DACS[21] and the other disciplinary actions authorized by the Act.

Federal Color Additive Regulations

The Federal Food, Drug, and Cosmetic Act (FDCA) authorizes the Food and Drug Administration (FDA) to oversee and regulate the production, sale, and distribution of food, drugs, medical devices, and cosmetics, and protect the public from adulterated and misbranded products manufactured and sold in the US.[22]

The FDA regulates color additives[23] in food, requiring pre-approval, specifying permitted uses and maximum amounts, and mandating labeling requirements, including the use of specific names for certified color additives and

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[16] S. 500.172, F.S.

[17] S. 500.03(1)(g), F.S., defines "color additive" as materials that include "a. Is a dye pigment, or other substance, made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or b. When added or applied to a food, is capable, alone or through reaction with another substance, of imparting color thereto; except that such term does not include any material that is exempt under the federal act."

[18] S. 500.10(1)(b), F.S.

[19] S. 500.13(1), F.S.

[20] S. 500.04, F.S.

[21] S. 500.173, F.S.

[22] National Library of Medicine, National Center for Biotechnology Information, *Food, Drug, and Cosmetic Act*, https://www.ncbi.nlm.nih.gov/books/NBK585046/#:~:text=The%201938%20Federal%20Food%2C%20Drug,across%2015%20states.%5B1%5D (last visited March 8, 2025).

[23] The FDCA defines "color additive" "as any material, not exempted under section 201(t) of the act, that is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source and that, when added or applied to a food, drug, or cosmetic or to the human body or any part thereof, is capable (alone or through reaction with another substance) of imparting a color thereto. Substances capable of imparting a color to a container for foods, drugs, or cosmetics are not color additives unless the customary or reasonably foreseeable handling or use of the container may reasonably be expected to result in the transmittal of the color to the contents of the package or any part thereof. Food ingredients such as cherries, green or red peppers, chocolate, and orange juice which contribute their own natural color when mixed with other foods are not regarded as color additives; but where a food substance such as beet juice is deliberately used as a color, as in pink lemonade, it is a color additive. Food ingredients as authorized by a definitions and standard of identity prescribed by regulations pursuant to section 401 of the act are color additives, where the ingredients are specifically designated in the definitions and standards of identity as permitted for use for coloring purposes. An ingredient of an animal feed whose intended function is to impart, through the biological processes of the animal, a color to the meat, milk, or eggs of the animal is a color additive and is not exempt from the requirements of the statute. This definition shall apply whether or not such ingredient has nutritive or other functions in addition to the property of imparting color. An ingested drug the intended

collective terms for exempt ones.[24] Color additives include both synthetic substances and substances derived from natural sources. Color additives may be used in food to enhance natural colors, add color to colorless and 'fun' foods such as cake decorations, and help identify flavors (such as purple for grape flavor or yellow for lemon). Color additives are sometimes called food dyes.[25]

The FDA classifies color additives as either "certified"[26] for use in foods, drugs, cosmetics, and medical devices or "exempt from certification."[27] Color additives subject to certification are generally synthetic organic dyes, lakes, or pigments. Color additives exempt from certification generally include those derived from plant or mineral sources.[28]

The FDA certified additives are often referred to as "FD&C" or "D&C" colors. The FDA's color certification program ensures that certifiable color additives meet specific purity and composition standards before they can be used in regulated products. These are synthetic color additives that require batch certification by the FDA. Examples of certified color additives include FD&C Red No. 3, FD&C Yellow No. 5, FD&C Yellow No. 6, FD&C Green No. 3, FD&C Blue No. 1, FD&C Blue No. 2, and FD&C Red No. 40.

FD&C Red No. 3 is a synthetic food dye that gives certain foods and drinks a bright, cherry-red color, and is found in certain candy, cakes and cupcakes, cookies, frozen desserts, and frostings and icings, and ingested drugs. The FDA requires manufacturers to list FD&C Red No. 3 in the statement of ingredients when added to food. The FDA will no longer allow for the use of FD&C Red No. 3 in food and ingested drugs. On January 15, 2025, the FDA issued an order to revoke these authorizations.[29] Manufacturers who use FD&C Red No. 3 in food and ingested drugs will have until January 15, 2027 or January 18, 2028, respectively, to reformulate their products.[30]

Titanium dioxide (TiO_2) is a synthetically produced white pigment, manufactured from naturally occurring ores. It is regulated by the FDA as a color additive and used in a variety of FDA regulated foods, such as bakery products and candy. The FDA is currently reviewing a Color Additive Petition filed on April 14, 2023. The petition asks the FDA to repeal section 21 CFR 73.575 to no longer provide for the use of titanium dioxide in foods.[31] Certification of this color additive is not necessary for the protection of the public health and therefore it is exempt from the certification requirements of the FDCA.[32]

Under the FDCA, a color additive is considered adulterated[33] if it bears or contains, a color additive which is unsafe,[34] and is considered misbranded[35] if its packaging and labeling are not in conformity with the FDCA packaging and labeling requirements.

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function of which is to impart color to the human body is a color additive. For the purposes of this part, the term color includes black, white, and intermediate grays, but substances including migrants from packaging materials which do not contribute any color apparent to the naked eye are not color additives."

[24] *See* 21 C.F.R., parts 70-82.

[25] U.S. Food & Drug Administration, *Color Additives Questions and Answers for Consumers*, https://www.fda.gov/food/color-additives-information-consumers/color-additives-questions-and-answers-consumers (last visited March 8, 2025).

[26] 21 C.F.R. part 74.

[27] 21 C.F.R. part 73.

[28] U.S. Food & Drug Administration, Color Additives in Foods, https://www.fda.gov/food/color-additives-information-consumers/color-additives-foods#:~:text=Certified%20color%20additives%20are%20synthetically,extract%20(red%20or%20purple). (last visited March 8, 2025).

[29] 21 CFR Part 74.

[30] U.S. Food & Drug Administration, *FD&C Red No. 3*, https://www.fda.gov/industry/color-additives/fdc-red-no-3#:~:text=Share-,FD&C%20Red%20No.,Cosmetic%20Act%20(FD&C%20Act). (last visited March 9, 2025)

[31] U.S. Food & Drug Administration, *Titanium Dioxide as a Color Additive in Foods*, https://www.fda.gov/industry/color-additives/titanium-dioxide-color-additive-foods#:~:text=Titanium%20dioxide%20(TiO2)%20is,may%20be%20added%20to%20foods. (last visited March 8, 2025).

[32] 21 C.F.R. § 73.575.

[33] 21 U.S.C. § 342.

[34] 21 U.S.C. § 379(e), provides that "unsafe color additives" "shall, with respect to any particular use (for which it is being used or intended to be used or is represented as suitable) in or on food or drugs or devices or cosmetics, be deemed unsafe for the

The FDA requires food manufacturers to list all ingredients on the label, with the ingredients used in the greatest amount first, followed in descending order by those in smaller amounts. The label must list the names of any FDA-certified color additive. With the exception of carmine/cochineal extract, color additives exempt from certification can be listed collectively as "artificial colors," "artificial color added," "color added," or equally informative terms, without naming each one. Because of potential allergic reactions in some people, carmine/cochineal extract are required to be identified by name on food labels.[36]

When an FDA investigation determines that a color additive violation has occurred, the agency can take a number of actions to enforce the FD&C Act and to protect the public health. In the absence of voluntary action (for example, product recall) by the responsible firm to correct the problem, the FDA has several advisory, administrative, and judicial options which include warning letters, detentions, issuance of import alerts, and seizures.

Other States

In response to concerns about potential health effects, several states, notably California, have introduced and passed legislation to ban specific food dyes, like Red 3, and other additives, including in school meals. In October 2023, California became the first state to prohibit certain color additives. The law banned the manufacture, distribution, and sale of foods and beverages containing food and color additives, including brominated vegetable oil, potassium bromate, propylparaben, and Red Dye No. 3.[37]

In 2024, California passed legislation banning food with certain food and color additives from being sold in schools. The law prohibits the sale of food and beverages containing the following substances: Blue Dye No. 1, Blue Dye No. 2, Green Dye No. 3, Red Dye No. 40, Yellow Dye No. 5, and Yellow Dye No. 6.[38] So far, Texas, Hawaii, and Virginia have introduced similar legislation this session that seeks to ban the use of certain additives in food and beverages sold in schools.

Several other states have proposed food and color additive bans. These states include Arkansas, Delaware, Missouri, New Jersey, New York, Oklahoma, Utah, Virginia, and West Virginia.[39]

OTHER RESOURCES:

National Library of Medicine: Potential impacts of synthetic food dyes on activity and attention in children: a review of the human and animal evidence.

Ohio State University Wexner Medical Center: How food dye can affect children.

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purposes of the application of section 342(c), 351(a)(4), or 361(e) of this title, as the case may be, unless— (1)(A) there is in effect, and such additive and such use are in conformity with, a regulation issued under subsection (b) of this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used, and (B) such additive either (i) is from a batch certified, in accordance with regulations issued pursuant to subsection (c), for such use, or (ii) has, with respect to such use, been exempted by the Secretary from the requirement of certification; or (2) such additive and such use thereof conform to the terms of an exemption which is in effect pursuant to subsection (f) of this section."

[35] 21 U.S.C. § 343.

[36] *See* 21 C.F.R., subpart B.

[37] AB-418 The California Food Safety Act (2023-2024).

[38] AB-2316 The California School Food Safety Act (2023-2024).

[39] University of Arkansas National Agricultural Law Center, *FDA bans Red Dye No. 3*, https://nationalaglawcenter.org/fda-bans-red-dye-no-3/#:~:text=State%20level%20bans&text=Additionally%2C%20in%202024%2C%20the%20FDA,Safety%20Act%2C%20codified%20at%20Cal. (last visited March 9, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Commerce Committee				

A bill to be entitled

An act relating to food additives; creating s. 500.181, F.S.; requiring food and drink products intended for human consumption that contain synthetic dyes to have a certain warning on the products' packaging; providing penalties; providing for the deposit of penalty proceeds; requiring the Department of Agriculture and Consumer Services to conduct certain inspections; providing an effective date.

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

Section 1. Section 500.181, Florida Statutes, is created to read:

500.181 Food additives.—

(1)(a) Effective July 1, 2026, an article used for food or drink for human consumption containing any synthetic color additive, including Blue 1 (CAS 3844-45-9), Blue 2 (CAS 860-22-0), Green 3 (CAS 2353-45-9), Red 40 (CAS 25956-17-6), Yellow 5 (CAS 1934-21-0), Yellow 6 (CAS 2783-94-0), and, when used as a color additive, titanium dioxide (CAS 13463-67-7), must display the following warning:

"WARNING: This product contains synthetic colors, which may have an adverse effect on activity and attention in children."

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

(b) A manufacturer may, until December 31, 2028, use an adhesive sticker to provide the warning requirements in paragraph (a). However, beginning January 1, 2029, such warnings must be printed directly on the product's packaging.

(2)(a) A manufacturer who violates subsection (1) is subject to a formal written notice and a fine of:

1. Up to $1,000 per item, for a first offense.

2. Up to $2,500 per item, for a second offense.

3. Up to $5,000 per item, for a third or subsequent offense.

(b) A retailer or distributor who sells a product that violates subsection (1) is subject to the following penalties:

1. A written warning for a first offense.

2. A formal citation requiring corrective action for a second offense.

3. A fine of $750 for a third offense.

4. A fine of $1,000 for a fourth offense.

5. A fine of up to $2,500 for a fifth or subsequent offense.

(c) Fines collected pursuant to this section shall be deposited in the department's General Inspection Trust Fund.

(3) The department shall conduct inspections under this section as part of regular food and drink product inspections.

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

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 641 by Rep. Tendrich
Food Additives

AMENDMENT SUMMARY
March 12, 2025

Amendment 1 by Rep. Tendrich (lines 2 and 15):

- Revises the title of the bill.

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: Industries & Professional Activities Subcommittee

Representative Tendrich offered the following:

Amendment (with directory and title amendments)

D I R E C T O R Y A M E N D M E N T

Remove line 15 and insert:

500.81 Color additives.-

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

Remove line 2 and insert:

An act relating to color additives; creating s.

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 683	**COMPANION BILL:** SB 712 (Grall)
TITLE: Construction Regulations	**LINKED BILLS:** None
SPONSOR(S): Griffitts	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Intergovernmental Affairs ➤ Commerce

SUMMARY

Effect of the Bill:

The bill prohibits local governments from prohibiting property owners from installing synthetic turf on their property. The bill requires local governments to approve or deny change orders from their contractors within 30 days. The bill prohibits the state and political subdivisions from penalizing large volume construction bidders or rewarding small volume bidders. The bill prohibits local building departments from requiring ancillary documentation in order to apply or receive a building permit.

Fiscal or Economic Impact:

Requiring local governments to process change orders within 30 days may lead to a decrease in construction time.

Prohibiting local governments from requiring ancillary documentation between building permit applicants and their respective clients as a condition to apply or obtain a building permit may have a positive impact by preventing certain proprietary information from becoming public.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill prohibits local governments from adopting or enforcing any ordinance, resolution, order, rule, or policy that **prohibits, or is used to prohibit**, a property owner from installing synthetic turf on his or her land. (Section 1)

The bill also prohibits a local government from adopting or enforcing any ordinance, resolution, order, rule, or policy that **regulates** synthetic turf installed in single-family residential areas that are one (1) acre or less in size. (Section 1)

The bill defines "synthetic turf" to mean "a manufactured product that resembles natural grass and is used as a surface for landscaping and recreational areas." (Section 1)

The bill authorizes the Department of Environmental Protection to adopt rules to implement the prohibitions on local government synthetic turf regulations. (Section 1)

Prompt Payment for Local Governments

The bill provides that if a local government entity receives a price quote for a change order from its contractor, which meets all statutory and contractual requirements, the local government must provide written notice to the contractor approving or denying the price quote within 30 days. (Section 2)

If a local government denies the price quote, the written notice must specify the alleged deficiencies in the quote and list the actions necessary to remedy the deficiencies. If a local government fails to provide such information in the written denial notice then it is liable to the contractor for any additional labor, staffing, materials, supplies, equipment, and overhead associated with the change order. (Section 2)

A contract between a local government and a contractor may not alter these provisions. (Section 2)

Public Works Projects

The bill provides that the state or any political subdivision, which contracts for public works, may not penalize a bidder for performing a larger volume of construction work for the state or political subdivision, or reward a bidder for performing a smaller volume of construction work for the state or political subdivision. (Section 3)

Building Permits

The bill provides that a local enforcement agency may not require a contract, or any other ancillary documentation between a permit applicant and their client, including, but not limited to, letters of intent. (Section 4)

The bill provides an effective date of July 1, 2025 (Section 5)

RULEMAKING:

This bill authorizes the Department of Environmental Protection to adopt rules to implement the prohibitions on local government regulations of synthetic turf.

Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Synthetic Turf

Synthetic turf, also known as "artificial grass" is a surface that closely replicates the look and feel of natural grass. Synthetic turf is a type of landscaping that eliminates the potentially unpredictable growth of natural grass.[1]

Current law prohibits homeowners' associations from restricting property owners or their tenants from installing, displaying, or storing synthetic turf that is not visible from the parcel's frontage or an adjacent parcel.[2] However, there is no law restricting local governments from regulating synthetic turf.

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.[3] Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law

[1] Kevin Sullivan, Artificial Turf 101: A Comprehensive Guide to Synthetic Grass, Turf Network Directory & Information Hub https://turfnetwork.org/artificial-turf-101/ (last visited March 8, 2025).
[2] S. 720.3045, F.S.
[3] Art. VIII, s. 1(f), Fla. Const.

approved by the vote of the electors.[4] Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.[5]

Preemption

Preemption refers to principle that a federal or state statute can supersede or supplant state or local law that stands as an obstacle to accomplishing the full purposes and objectives of the overriding federal or state law.[6]

Where state preemption applies, a local government may not exercise authority in that area.[7] Whether a local government ordinance or other measure violates preemption is ultimately decided by a court. If a local government improperly enacts an ordinance or other measure on a matter preempted to the state, a person may challenge the ordinance by filing a lawsuit. A court ruling against the local government may declare the preempted ordinance void.[8]

Prompt Payment Act for Local Governments

Chapter 218, part VII, F.S., is known as the "Local Government Prompt Payment Act" ("Act"). The purpose of the Act is to provide for prompt payments by local governments, apply interest on late payments made by local governments, and establish a dispute resolution process for contested payments.[9]

The Act defines "local government entity," as a county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof.[10]

Current law provides that when a local government entity enters into a contract for construction services[11] with a contractor,[12] the local government entity must identify the agent,[13] employee, facility, or office who is to receive the contractor's payment request or invoices.[14] Every local government entity must establish procedures so that every payment request or invoice received by the local government entity is marked as received on the date on which it is delivered to an agent or employee of the local government entity, or a facility or office of the local governmental entity.[15]

When a contractor submits a payment request or invoice, the local government entity must make the payment within:[16]

- 25 business days after the date on which the payment request or invoice is stamped, if an agent must approve the invoice before it is submitted to the entity for payment; or
- 20 business days after the date the payment request or invoice is stamped, if an agent is not required to approve the invoice.

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[4] Art. VIII, s. 1(g), Fla. Const.
[5] Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.
[6] Preemption Definition, Black's Law Dictionary (12th ed. 2024).
[7] *D'Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017); Judge James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).
[8] See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).
[9] S. 218.71, F.S.
[10] S. 218.72(5), F.S.
[11] "Construction services" is defined as all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or other improvements to real property. S. 218.72(2), F.S.
[12] "Contractor" means the person who ntity to provide construction services." S. 218.72(3), F.S.
[13] "Agent" means the project architect, project engineer, or other agency or person acting on behalf of the local governmental entity. S. 218.72(1), F.S.
[14] S. 218.735(1), F.S.
[15] S. 218.74(1), F.S.
[16] S. 218.735(1), F.S.

Change Order

A "change order" is amendment to a construction contract that change's the contractor's scope of work. Most change orders modify the work required by the contract or adjust the amount of time the contractor has to complete the work, or both.[17]

Public Works Projects

A "public works project" is an activity that is paid for with any local or state-appropriated funds and that consists of the construction, maintenance, repair, renovation, remodeling, or improvement of a building, road, street, sewer, storm drain, water system, site development, irrigation system, reclamation project, gas or electrical distribution system, gas or electrical substation, or other facility, project, or portion thereof owned in whole or in part by any political subdivision.[18]

The term does not include the provision of goods, services, or work incidental to the public works project, such as the provision of security services, janitorial services, landscaping services, maintenance services, transportation services, or other services that do not require a construction contracting license or involve supplying or carrying construction materials for a public works project.[19]

A "political subdivision" is a separate agency or unit of local government created or established by law or ordinance and the officers thereof.[20]

This includes, but is not limited to, a county a city, town, or other municipality; or a department, commission, authority, school district, taxing district, water management district, board, public corporation, institution of higher education, or other public agency or body thereof authorized to expend public funds for construction, maintenance, repair, or improvement of public works.[21]

Except as required by federal or state law, the state or any political subdivision that contracts for a public works project **may not**:[22]

- Prevent a licensed contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residences of employees of such contractor, subcontractor, or material supplier or carrier;
- Require a contractor, subcontractor, or material supplier or carrier engaged in the project to:
    - Pay employees a predetermined amount of wages or prescribe any wage rate;
    - Provide employees a specified type, amount, or rate of employee benefits;
    - Control, limit, or expand staffing; or
    - Recruit, train, or hire employees from a designated, restricted, or single source.
- Prohibit any contractor, subcontractor, or material supplier or carrier from receiving information about public works opportunities or submitting a bid on the project if such individual is able to perform the work described and is qualified and licensed as required by state law, unless that vendor has been placed on the state's convicted vendor or discriminatory vendor lists.

[17] Luke J. Farley, Sr., Construction 101: The Basics of Change Orders, American Bar Association (October 8, 2018) https://www.americanbar.org/groups/construction_industry/publications/under_construction/2018/fall/construction-101/ (last visited March 8, 2025).
[18] S. 255.0992(1), F.S.
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] S. 255.0992(2), F.S.

Building Permits

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.[23] Every local government must enforce the Florida Building Code and issue building permits.[24]

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.[25] 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 enforcement agency or from such persons as may, by resolution or regulation, be directed to issue such permit.[26]

A local enforcement agency may not require a contract between an owner and a contractor as a condition to apply for or obtain a building permit for construction work. If the permit is for work on a commercial property then a local enforcement agency may not require a contract between the contractor and their subcontractors or material suppliers.[27]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Brackett
Intergovernmental Affairs Subcommittee				
Commerce Committee				

[23] S. 553.72, F.S.
[24] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.
[25] S. 468.603, F.S.; S. 202 of the Eighth edition of the Florida Building Code (Building).
[26] Ss. 125.56(4)(a) and 553.79(1), F.S.
[27] S. 553.79(1)(f), and 713.135(6), F.S.

A bill to be entitled

An act relating to construction regulations; creating s. 125.572, F.S.; defining the term "synthetic turf"; prohibiting local governments from adopting or enforcing any ordinance, resolution, order, rule, or policy that prohibits, or is enforced to prohibit, property owners from installing synthetic turf on their land; prohibiting local governments from adopting or enforcing any ordinance, resolution, order, rule, or policy that regulates synthetic turf installed in specified single-family residential areas; authorizing the Department of Environmental Protection to adopt rules; creating s. 218.755, F.S.; requiring local governmental entities to approve or deny certain price quotes and provide notice to contractors within a specified timeframe; requiring denials to specify alleged deficiencies and actions necessary to remedy such deficiencies; providing that a local governmental entity that fails to provide such information with a denial is liable to the contractor for specified overhead; prohibiting contracts from altering specified duties of a local governmental entity; amending s. 255.0992, F.S.; prohibiting the state or political subdivisions that contract for public works projects from penalizing or rewarding

bidders for performing larger or smaller volumes of construction work, respectively, for the state or political subdivisions; amending s. 553.79, F.S.; prohibiting local enforcement agencies from requiring ancillary documentation between permit applicants and their clients for issuing building permits or as a requirement for submitting building permit applications; providing an effective date.

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

Section 1. Section 125.572, Florida Statutes, is created to read:

125.572 Regulation of synthetic turf.—

(1) As used in this section, the term "synthetic turf" means a manufactured product that resembles natural grass and is used as a surface for landscaping and recreational areas.

(2) A local government may not adopt or enforce any ordinance, resolution, order, rule, or policy that prohibits, or is enforced so as to prohibit, a property owner from installing synthetic turf on his or her land.

(3) A local government may not adopt or enforce any ordinance, resolution, order, rule, or policy that regulates synthetic turf installed in single-family residential areas 1 acre or less in size.

(4) The Department of Environmental Protection may adopt rules to implement this section.

Section 2. Section 218.755, Florida Statutes, is created to read:

218.755 Prompt processing of change orders.—Beginning on or after July 1, 2025, if a local governmental entity receives from its contractor a price quote for a change order issued by the local governmental entity, and the price quote conforms to all statutory requirements and contractual requirements for the project, the local governmental entity must approve or deny the price quote and send written notice of that decision to the contractor within 30 days. Any denial notice must specify the alleged deficiencies in the price quote and the actions necessary to remedy those deficiencies. If the local governmental entity fails to provide such information on a denial notice, it is liable to the contractor for all additional labor, staffing, materials, supplies, equipment, and overhead associated with the change order. A contract between a local governmental entity and a contractor may not alter the local governmental entity's duties under this section.

Section 3. Paragraph (d) is added to subsection (2) of section 255.0992, Florida Statutes, to read:

255.0992 Public works projects; prohibited governmental actions.—

(2) Except as required by federal or state law, the state

or any political subdivision that contracts for a public works project may not take the following actions:

(d) Penalize a bidder for performing a larger volume of construction work for the state or political subdivision or reward a bidder for performing a smaller volume of construction work for the state or political subdivision.

Section 4. Paragraph (f) of subsection (1) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

(1)

(f) A local enforcing agency ~~government~~ may not require a contract, or any other ancillary documentation, including, but not limited to, letters of intent, between a permit applicant and its client ~~builder and an owner~~ for the issuance of a building permit or as a requirement for the submission of a building permit application.

Section 5. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 683 by Rep. Griffitts
Construction Regulation

AMENDMENT SUMMARY
March 12, 2025

Amendment 1 by Rep. Griffitts (line 86):

- **Clarifies** the language that local governments may not require building applicants to submit **ancillary documentation** between an owner and builder in order to receive a permit by **replacing** it with the language that local governments may not require building applicants to submit copies of contracts between builders and owners or **associated documents, including material cost lists, labor costs, or overhead or profit statements,** in order to receive a building permit

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: Industries & Professional Activities Subcommittee

Representative Griffitts offered the following:

Amendment (with title amendment)

Remove lines 86-91 and insert:

(f) A local government may not require a contract between a builder and an owner, any copies of such contract, or any associated documents, including, but not limited to, letters of intent, material cost lists, labor costs, or overhead or profit statements, for the issuance of a building permit or as a requirement for the submission of a building permit application.

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

Remove lines 29-33 and insert:

prohibiting local governments from requiring copies of specified documents for the issuance of a building permit; providing an effective date.

HB 715

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 715	**COMPANION BILL:** SB 1076 (McClain)
TITLE: Roofing Services	**LINKED BILLS:** None
SPONSOR(S): Porras	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Commerce

SUMMARY

Effect of the Bill:

The bill expands the scope of work for licensed roofing contractors. The bill narrows the time-period that a residential property may cancel a roofing contract entered into because of a state of emergency.

Fiscal or Economic Impact:

The bill may have a positive economic impact by increasing the number of licensed contractors who can evaluate and enhance certain roof-to-wall connections. Narrowing the time-period that a residential property may cancel a roofing contract without penalty or obligation may have a negative economic impact by leading to additional litigation.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill **expands the scope of work** for licensed roofing contractors to include evaluation and enhancement of roof-to-wall connections for structures with wood roof decking as described in Section 706 of the Florida Building Code. Any enhancement must be:

- Done in conjunction with a roof covering replacement or repair; and
- Installed and inspected in accordance with the:
  - Office of Insurance Regulation ("OIR") uniform mitigation verification inspection form;
  - Florida Building Code; or
  - project specific engineering that exceeds the requirements of the Florida Building Code or OIR inspection form. (Section 1)

The bill also limits the time period that a residential property owner may cancel a contract, which was entered into because of an event causing a state of emergency, to replace or repair a roof without penalty or obligation. Currently a residential property owner may cancel such a contract without penalty or obligation within the earlier of 10 days after entering the contract or by the official start date. (Section 9)

The bill provides that in addition to the current law requirements, a residential property owner may only cancel the contract without penalty or obligation if they cancel **within 30 days** of an event causing a state of emergency, not including any subsequent extensions of the state of emergency for the same event. (Section 9)

The bill reduces the font size of the notice in a roofing contract that states a residential property may cancel a roofing contract entered into because of an event causing a state of emergency without penalty or obligation within a certain time-period. The bill **reduces the font size from 18 points to 14 points**. (Section 9)

The bill provides an effective date of upon becoming law. (Section 10)

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Roofing Contractors

Chapter 489, F.S., regulates the profession of contracting in the state. Generally speaking, a licensed contractor is the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, and whose job scope is substantially similar to the job scopes described in s. 489.105, F.S.[1]

A roofing contractor's scope of work specifically includes services that are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof.

A roofing contractor's scope of work also includes skylights, required roof-deck attachments, repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement, and any related work.

A roofing contractor's scope of work does not include evaluating or enhancing roof-to-wall connections.

Florida Building Code

The Florida Building Codes Act ("Building Code"), provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single state building code that must be applied, administered, and enforced uniformly and consistently across the state. The Building Code is adopted by the Building Commission and enforced by local governments.[2]

The Building Code sets minimum standards for the design, construction, erection, alteration, modification, repair, and demolition of structures in the state. Section 706 of the Building Code (Existing Building) provides methods for recovering or replacing an existing roof covering.[3]

A roof covering is the most visual part of the roofing system and makes up the majority of waterproofing and protection. The most popular roof covering is shingles; however, there are other types including, but not limited to, metal roofing and wood shakes.[4]

Roof decking or "sheathing" is the layer of material that sits underneath the shingles and serves as the foundation of the roof. Roof decking can be made of different types of materials such as wood or metal. [5]

Uniform Mitigation Verification Inspection Form

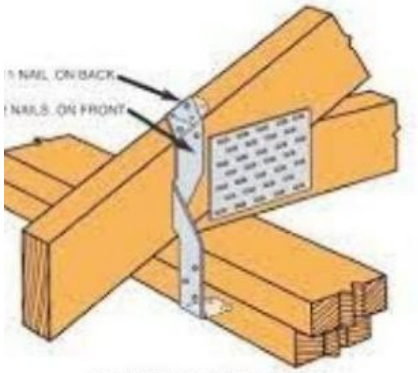
A uniform mitigation form is a form developed by OIR that insurers provide to residential property insurance policyholders that notifies them of any discounts, credits, or deductibles that are available for certain fixtures or construction techniques that reduce the amount of loss in a windstorm.[6]

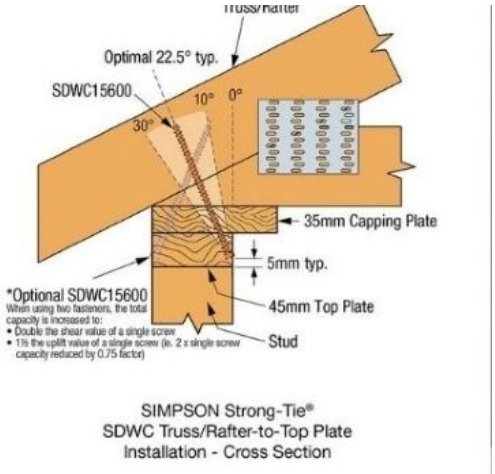
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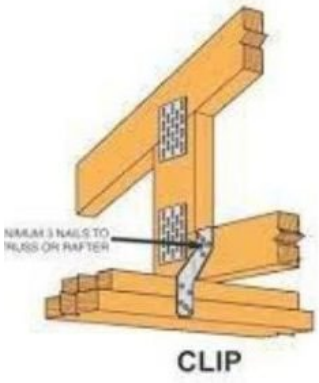
[1] S. 489.105(3), F.S.
[2] Ss. 125.56, 553.72, 553.73, and 553.74, F.S.
[3] S. 553.72, F.S.; Section 706 of the Florida Building Code (Existing Building).
[4] RoofCorp of Metro Denver, Inc., *What is Roof Covering*, https://roofingexperts.com/roof-covering/ (last visited March 8, 2025).
[5] Hook Agency, *Roof Decking (When It Should Be Replaced, Types & More)*, Indy Roof & Restoration https://indyroofandrestoration.com/roof-decking/ (last visited March 8, 2025).
[6] S. 627.711, F.S.

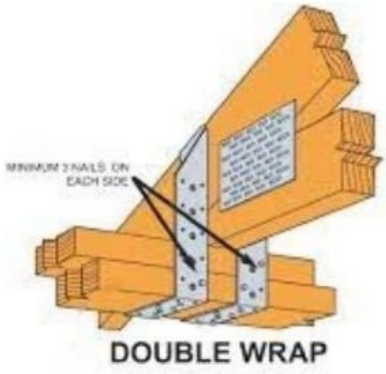
Roof-to-wall connections

The roof-to-wall connection is the structural linkage between a building's roof and its walls. They are a critical aspect of wind mitigation and sometimes referred to as "hurricane straps."[7] Below are examples of different types of hurricane straps.[8]









Canceling Roofing Contracts

Current law allows a residential property owner to cancel a contract to replace or repair a roof without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, as long as the contract was entered into because of events that caused a declaration of a state of emergency by the Governor.[9]

A contractor that enters into a contract to replace or repair the roof of a residential property during a declared state of emergency must include specific language in the contract that notifies the residential property owner that they may cancel the contract without penalty or obligation[10]

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[7] Megan Hall, Roof-to-wall Connectors: What are they and how they affect your Wind Mitigation Verification Form, True Home Inspections, April 11, 2023 https://www.truehomeinspects.com/blog/2023/3/15/kmwu3p5vzbf1eym9ezrd42farrb7r8#:~:text=They%20are%20designed%20to%20transfer%20the%20uplift%20forces,roof%20pitch%20and%20the%20spacing%20of%20the%20trusses. (last visited March 8, 2025); Howard Meeks, Types of Roof Wall connections, Ocoee Home Inspections, https://ocoeehomeinspections.com/types-of-roof-to-wall-connections/ (last visited March 8, 2024).

[8] *Id.*

[9] S. 489.147(6), F.S. The "official start date" is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a final permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

[10] *Id.*

The language must be in bold type of not less than 18 points.[11]

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Brackett
Commerce Committee				

[11] *Id.*

A bill to be entitled

An act relating to roofing services; amending s. 489.105, F.S.; revising the definition of the term "roofing contractor"; reenacting ss. 489.107(4)(b), 489.113(2), 489.117(1)(a), (2)(a) and (b), and (4)(a), 489.118(1), 489.126(1), 489.131(10) and (11), and 877.02(2), F.S.; relating to the Construction Industry Licensing Board, qualifications for practice and restrictions, registration and specialty contractors, certification of registered contractors and grandfathering provisions, moneys received by contractors, applicability, and solicitation of legal services or retainers therefor and penalty, respectively, to incorporate the amendment made to s. 489.105, F.S., in references thereto; amending s. 489.147, F.S.; providing applicability; revising the official start date that a residential property owner may cancel a contract to replace or repair a roof without penalty or obligation; revising the language required to be in a contract, or attached thereto, to replace or repair a roof that is executed within a specified time of a declaration of a state of emergency; providing an effective date.

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

Section 1. Paragraph (e) of subsection (3) of section 489.105, Florida Statutes, is amended to read:

489.105 Definitions.—As used in this part:

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

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials

and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes all of the following and any related work: skylights; ~~and any related work,~~ required roof-deck attachments;~~, and~~ any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement; and the evaluation and enhancement of roof-to-wall connections for structures with wood roof decking as described in Section 706 of the Florida Building Code, provided that any enhancement, which was properly installed and inspected in accordance with the Office of Insurance Regulation uniform mitigation verification inspection form, the Florida Building Code, or project specific engineering that exceeds these requirements, is done in conjunction with a roof covering replacement or repair ~~and any related work~~.

Section 2. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 489.107, Florida Statutes, is reenacted to read:

489.107 Construction Industry Licensing Board.—

(4) The board shall be divided into two divisions, Division I and Division II.

(b) Division II is comprised of the roofing contractor,

sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; one of the members appointed pursuant to paragraph (2)(j); and one of the members appointed pursuant to paragraph (2)(k). Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

Section 3. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (2) of section 489.113, Florida Statutes, is reenacted to read:

489.113 Qualifications for practice; restrictions.—

(2) A person must be certified or registered in order to engage in the business of contracting in this state. However, for purposes of complying with the provisions of this chapter, a subcontractor who is not certified or registered may perform construction work under the supervision of a person who is certified or registered, provided that the work is within the scope of the supervising contractor's license, the supervising contractor is responsible for the work, and the subcontractor being supervised is not engaged in construction work that would require a license as a contractor under any of the categories listed in s. 489.105(3)(d)-(o). This subsection does not affect the application of any local construction licensing ordinances. To enforce this subsection:

(a) The department shall issue a cease and desist order to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the work being performed under this part. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of such order.

(b) A county, municipality, or local licensing board created by special act may issue a cease and desist order to prohibit any person from engaging in the business of contracting who does not hold the required certification or registration for the work being performed under this part.

Section 4. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in references thereto, paragraph (a) of subsection (1), paragraphs (a) and (b) of subsection (2), and paragraph (a) of subsection (4) of section 489.117, Florida Statutes, are reenacted to read:

489.117 Registration; specialty contractors.—

(1)(a) A 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, unless he or she is certified. Except as provided in paragraph (2)(b), to be initially registered, the applicant must 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.

(2)(a) Except as provided in paragraph (b), the board may not issue a new registration 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 have a license type available for the category of work for which the applicant was issued a certificate of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an e-mail or letter from the office of the local building official or local building department stating that such license type is not 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 this paragraph.

(4)(a)1. A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211, may not require a

person to obtain a license, issued by the local government or the state, for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1), or the job scope of one of the certified specialty contractor categories established pursuant to s. 489.113(6). A local government may not require a state or local license to obtain a permit for such job scopes. For purposes of this section, job scopes for which a local government may not require a license include, but are not limited to, painting; flooring; cabinetry; interior remodeling when the scope of the project does not include a task for which a state license is required; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; pressure washing; stuccoing; caulking; and canvas awning and ornamental iron installation.

2. A county that includes an area designated as an area of critical state concern under s. 380.05 may offer a license for any job scope which requires a contractor license under this part if the county imposed such a licensing requirement before January 1, 2021.

3. A local government may continue to offer a license for veneer, including aluminum or vinyl gutters, siding, soffit, or fascia; rooftop painting, coating, and cleaning above three stories in height; or fence installation and erection if the

local government imposed such a licensing requirement before January 1, 2021.

4. A local government may not require a license as a prerequisite to submit a bid for public works projects if the work to be performed does not require a license under general law.

Section 5. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (1) of section 489.118, Florida Statutes, is reenacted to read:

489.118 Certification of registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certificate in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(1) Currently holds a valid registered local license in one of the contractor categories defined in s. 489.105(3)(a)-(p).

Section 6. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (1) of section 489.126, Florida Statutes, is reenacted to read:

489.126 Moneys received by contractors.—

(1) For purposes of this section, the term "contractor"

includes all definitions as set forth in s. 489.105(3), and any person performing or contracting or promising to perform work described therein, without regard to the licensure of the person.

Section 7. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in references thereto, subsections (10) and (11) of section 489.131, Florida Statutes, are reenacted to read:

489.131 Applicability.—

(10) No municipal or county government may issue any certificate of competency or license for any contractor defined in s. 489.105(3)(a)-(o) after July 1, 1993, unless such local government exercises disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in subsection (7). Each local board that licenses and disciplines contractors must have at least two consumer representatives on that board. If the board has seven or more members, at least three of those members must be consumer representatives. The consumer representative may be any resident of the local jurisdiction who is not, and has never been, a member or practitioner of a profession regulated by the board or a member of any closely related profession.

(11) Any municipal or county government which enters or has in place a reciprocal agreement which accepts a certificate

of competency or license issued by another municipal or county government in lieu of its own certificate of competency or license allowing contractors defined in s. 489.105(3)(a)-(o), shall file a certified copy of such agreement with the board not later than 60 days after July 1, 1993, or 30 days after the effective date of such agreement.

Section 8. For the purpose of incorporating the amendment made by this act to section 489.105, Florida Statutes, in a reference thereto, subsection (2) of section 877.02, Florida Statutes, is reenacted to read:

877.02 Solicitation of legal services or retainers therefor; penalty.—

(2) It shall be unlawful for any person in the employ of or in any capacity attached to any hospital, sanitarium, police department, wrecker service or garage, prison or court, for a person authorized to furnish bail bonds, investigators, photographers, insurance or public adjusters, or for a general or other contractor as defined in s. 489.105 or other business providing sinkhole remediation services, to communicate directly or indirectly with any attorney or person acting on said attorney's behalf for the purpose of aiding, assisting, or abetting such attorney in the solicitation of legal business or the procurement through solicitation of a retainer, written or oral, or any agreement authorizing the attorney to perform or render legal services.

Section 9. Paragraphs (a) and (b) of subsection (6) of section 489.147, Florida Statutes, are amended to read:

489.147 Prohibited property insurance practices; contract requirements.—

(6)(a) A residential property owner may cancel a contract to replace or repair a roof without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, if the contract was entered into within 30 days of ~~based on~~ events that are the subject of a declaration of a state of emergency by the Governor. This subsection does not apply to any subsequent extension of a state of emergency for the same event. For the purposes of this subsection, the official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a ~~final~~ permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

(b) A contractor executing a contract during a declaration of a state of emergency to replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 14 points ~~18 points~~, immediately before the space reserved for the signature of the residential property owner:

"You, the residential property owner, may cancel this contract

without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, because this contract was entered into within 30 days of events resulting in the declaration of ~~during~~ a state of emergency by the Governor. The official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a ~~final~~ permit has been issued, or a temporary repair to the roof covering or roof system has been made in compliance with the Florida Building Code."

Section 10. This act shall take effect upon becoming a law.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 715 by Rep. Porras
Roofing Services

AMENDMENT SUMMARY
March 12, 2025

Amendment 1 by Rep. Porras (line 61):

- Clarifies that "wood decking as described in section 706 of the Florida Building Code" is referring to section 706 of the Existing Building provision of the Building Code.

Amendment 2 by Rep. Porras (line 284):

- Extends the period that a resident may cancel a roofing contract without penalty to within **180 days** of an event causing a state of emergency **instead of 30 days**.
- Clarifies that the option to cancel a roofing contract entered into because of a state of emergency **only applies to owner's whose property is in the geographic area covered by the state of the emergency.**

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: Industries & Professional Activities Subcommittee

Representative Porras offered the following:

Amendment

Remove line 61 and insert:

in Section 706 of the Florida Building Code-Existing Building, provided that any

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: Industries & Professional Activities Subcommittee

Representative Porras offered the following:

Amendment

Remove lines 284-305 and insert:

into within 180 days of ~~based on~~ events that are the subject of a declaration of a state of emergency by the Governor and the residential property is located within the geographic area for which the declaration of the state of emergency applies. For the purposes of this subsection, the official start date is the date on which work that includes the installation of materials that will be included in the final work on the roof commences, a ~~final~~ permit has been issued, or a temporary repair to the roof covering or roof has been made in compliance with the Florida Building Code.

(b) A contractor executing a contract during a declaration of a state of emergency to replace or repair a roof of a residential property must include or add as an attachment to the contract the following language, in bold type of not less than 14 points ~~18 points~~, immediately before the space reserved for the signature of the residential property owner:

"You, the residential property owner, may cancel this contract without penalty or obligation within 10 days after the execution of the contract or by the official start date, whichever comes first, because this contract was entered into within 180 days of events resulting in the declaration of ~~during~~ a state of emergency by the Governor. The official start date is the date

HB 729

FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: HB 729	**COMPANION BILL:** SB 652 (Bradley)
TITLE: Veterinary Professional Associates	**LINKED BILLS:** None
SPONSOR(S): Melo	**RELATED BILLS:** None

Committee References

Industries & Professional Activities ➤ Commerce

SUMMARY

Effect of the Bill:

The bill creates a new category of veterinary professional known as a "veterinary professional associate." The bill defines the qualifications necessary for individuals to use this title. The bill allows such individuals to perform certain duties while under the supervision of a veterinarian and practice veterinary medicine on a limited basis. The bill makes supervising veterinarians liable for veterinary professional associates acting under their supervision.

The effective date of the bill is July 1, 2025.

Fiscal or Economic Impact:

The bill may have an indeterminate positive fiscal impact on the private sector.

JUMP TO SUMMARY ANALYSIS RELEVANT INFORMATION BILL HISTORY

ANALYSIS

EFFECT OF THE BILL:

The bill creates a new category of veterinary professional called a "veterinary professional associate," and allows such individuals to work under the supervision of a licensed veterinarian and practice veterinary medicine on a limited basis, as follows:

- Names the act, the "Veterinary Workforce Innovation Act." (Section 1)
- Provides the following legislative findings: (Section 2)
  - "The practice of educated, trained, and experienced veterinary professional associates will increase consumers' access to high-quality veterinary medical services, at a reasonable cost to consumers, while also increasing the efficiency of the practice of veterinary medicine in this state."
- Defines the following terms: (Section 2)
  - "Approved program" means a master's program in veterinary clinical care, or the equivalent, from a school of veterinary medicine in the United States or in its territories or possessions.
  - "Veterinary professional associate" means a person who has earned a master's degree from an approved program 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 and passed a national competency examination. (Section 2)
- Allows, unless otherwise prohibited by federal or state law, a veterinary professional associate to perform duties or actions of veterinary medicine, in which he or she possesses the competence, necessary training, current knowledge, and experience to perform the assigned duties. (Section 2)

- Allows a veterinary professional associate to perform only the duties assigned to him or her while under the responsible supervision of a licensed veterinarian, except when immediate supervision is required. (Section 2)
- Prohibits veterinary professional associates from: (Section 2)
    - Unless otherwise authorized by state or federal law, prescribing medicinal drugs, prescription drugs, or controlled substances.
    - Performing surgery, except for veterinary sterilizations or surgical procedures that do not enter a body cavity.
    - Performing surgical procedures unless under the immediate supervision of a licensed veterinarian.
- Makes licensed veterinarians who assign duties or actions to a veterinary professional associate liable for any act or omission of the veterinary professional associate acting under the licensed veterinarian's supervision. (Section 2)

The effective date of the bill is July 1, 2025. (Section 3)

FISCAL OR ECONOMIC IMPACT:

PRIVATE SECTOR:

Indeterminate. The bill may have in indeterminate positive economic impact on the private sector. The bill will allow a new class of midlevel practitioners in veterinary medicine. This may lead to additional jobs, and cost savings related to improved veterinary care.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

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;

[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."

- 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;
- 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 methods of treatment or techniques to diagnose or treat 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]

According to the most recent figures, there are approximately 13,600 licensed veterinarians in Florida.[14]

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[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 March 9, 2025).
[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.
[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, *Veterinary Medicine – Board Information*, https://www2.myfloridalicense.com/veterinary-medicine/board-

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.

Veterinary tasks that may be performed without the licensed veterinarian on the premises, include:[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.

Responsible Supervision

Responsible supervision means "the control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services which she or he delegates to unlicensed personnel."[18]

Veterinarian Shortage

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. 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.[19]

According to the American Veterinary Medical Association (AVMA), a midlevel practitioner may not be the best option to address this shortage, but instead recommend that more effort "should be spent on resources, tools, and programs designed to retain veterinarians and credentialed veterinary technicians."[20]

A study conducted by the National Library of Medicine found a veterinary professional health care provider, similar to the human medical profession's physician assistant, could help address the veterinary shortage, and that such individuals, modeled after physician assistants, 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.[21]

A recent study conducted by Michigan State University's Department of Agricultural, Food, and Resource Economics found that the "veterinary medical profession is facing a capacity crisis, struggling to meet the growing demand for services. Introducing a new mid-level provider role, the Veterinary Professional Associate (VPA), could bridge the gap between veterinarians and technicians, potentially helping to alleviate this issue." The study also

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information/#:~:text=The%20Board%20of%20Veterinary%20Medicine,Chapter%2061G18%2C%20Florida%20Administrative%20Code. (last visited March 9, 2025).

[15] S. 474.202(5), F.S.

[16] R. 61G18-17.005, F.A.C.

[17] *Id.*

[18] S. 474.202(10), F.S.

[19] Dana Zimmel, *Florida needs more veterinarians | Column*, Tampa Bay Times (March 9, 2025), https://www.tampabay.com/opinion/2022/01/03/florida-needs-more-veterinarians-column/ (last visited March 9, 2025).

[20] 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 March 9, 2025).

[21] 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 March 9, 2025).

found that "with this as a foundation, structured educational and credentialing programs can be developed around the broad base of competencies and knowledge necessary for consistent, predictable success as a VPA. Further, the study found that "regulatory environments and potential restraints notwithstanding, perhaps one of the biggest hurdles to the successful implementation of a midlevel provider in veterinary medicine will be the inherent hesitation or reluctance of veterinarians to delegate clinical responsibilities."[22]

Human Physician Assistants

According to the Mayo Clinic, physician assistants 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, physician assistants 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 physician assistant 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."[23]

In Florida, physician assistants are licensed medical professionals that are authorized to perform services delegated by a supervising physician.[24] 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 2023-2024, there were 11,890 actively licensed PAs in the state, and 1,339 initial PA licenses were issued by the Florida Department of Health.[25]

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	HB 849	Killebrew, Buchanan	Bradley	Became law on July 1, 2024.

OTHER RESOURCES:

Department of Business and Professional Regulation: Veterinary Medicine Board Information

The USDA Veterinary Medicine Loan Repayment Program Veterinary Services Shortage Situations Map

[22] James W. Lloyd, Donna L. Harris, David M. Smith, *The Veterinary Professional Associate Financial Model: General Practice*, (July 2024), https://ideas.repec.org/p/ags/midasp/347403.html (last visited March 9, 2025).
[23] 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 March 9, 2025).
[24] Ss. 458.347(2)(e) and 459.022(2)(e).
[25] Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long-Range Plan, Fiscal Year 2023-2024, https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/2024.10.28.FY23-24AR-FINAL.pdf (last visited March 9, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Industries & Professional Activities Subcommittee			Anstead	Thompson
Commerce Committee				

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 veterinary professional associates to perform certain duties only while under the responsible supervision of a licensed veterinarian; prohibiting such associates from prescribing certain drugs or controlled substances or performing certain surgical procedures; providing exceptions; providing that supervising veterinarians are liable for the acts or omissions of veterinary professional associates under their supervision; 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 of educated, trained, and experienced veterinary professional associates will

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

increase consumers' access to high-quality veterinary medical services, at a reasonable cost to consumers, while also increasing the efficiency of the practice of veterinary medicine in this state.

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

(a) "Approved program" means a master's program in veterinary clinical care, or the equivalent, from a school of veterinary medicine in the United States or in its territories or possessions.

(b) "Veterinary professional associate" means a person who has earned a master's degree from an approved program 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 and passed a national competency examination.

(4) Unless otherwise prohibited by federal or state law, a veterinary professional associate may perform duties or actions, including duties or actions in s. 474.202(9) and (13), in which he or she possesses the competence, necessary training, current knowledge, and experience to perform the assigned duties. The veterinary professional associate may perform only the duties assigned to him or her while under the responsible supervision, as defined in s. 474.202, of a licensed veterinarian, except when immediate supervision is required as provided in paragraph

(5)(b).

(5) A veterinary professional associate may not do either of the following:

(a) Unless otherwise authorized by state or federal law, prescribe medicinal drugs or drugs as defined in s. 465.003(15) or a controlled substance listed in chapter 893.

(b) Perform a surgical procedure, except for veterinary sterilizations or surgical procedures that do not enter a body cavity. Surgical procedures must be performed under immediate supervision, as defined in s. 474.202, of a licensed veterinarian.

(6) A licensed veterinarian who assigns duties or actions to a veterinary professional associate is liable for any act or omission of the veterinary professional associate acting under the licensed veterinarian's supervision.

Section 3. This act shall take effect July 1, 2025.

INDUSTRIES & PROFESSIONAL ACTIVITIES SUBCOMMITTEE

HB 729 by Rep. Melo
Veterinary Professional Associates

AMENDMENT SUMMARY
March 12, 2025

Amendment 1 by Rep. Melo (lines 52-61):

- Specifies education requirements.
- Clarifies surgical procedure requirements.

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: Industries & Professional Activities Subcommittee

Representative Melo offered the following:

Amendment (with title amendment)

Remove lines 52-61 and insert:

(5) To ensure competency in clinical practice, all candidates for the veterinary professional associate designation must complete a minimum of 100 hours of in-person clinical skills training, focusing on fundamental hands-on procedures, patient handling, diagnostic techniques, and treatment protocols under direct supervision. Additionally, candidates must complete a minimum of 200 hours of clinical rotations in approved veterinary settings. These rotations must provide practical experience in real-world veterinary care environments, allowing candidates to develop proficiency in case management, client

communication, and interdisciplinary collaboration. Compliance with these requirements shall be verified through documented assessments conducted by licensed veterinary professionals.

(6) A veterinary professional associate may not do either of the following:

(a) Unless otherwise authorized by state or federal law, prescribe medicinal drugs or drugs as defined in s. 465.003(15) or a controlled substance listed in chapter 893.

(b) Perform surgical procedures that enter a body cavity, except for veterinary sterilizations. Such surgical procedures must be performed under immediate supervision, as defined in s. 474.202, of a licensed veterinarian.

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

Remove line 9 and insert:

a licensed veterinarian; specifying education requirements; prohibiting such associates