

<b>Tab 1</b>	<b>SB 728</b> by <b>Lee</b> ; (Similar to CS/H 00437) Growth Management						
<b>Tab 2</b>	<b>SB 806</b> by <b>Perry</b> ; (Similar to CS/H 00167) Local Government Public Construction Works						
693864	A	S	WD	CA, Perry	Delete L.155 - 158:	03/13 08:47 AM	
<b>Tab 3</b>	<b>SB 902</b> by <b>Perry</b> ; (Similar to H 00447) Open and Expired Building Permits						
<b>Tab 4</b>	<b>SJR 326</b> by <b>Brandes</b> ; (Identical to H 01389) Homestead Property Tax Assessments/Increased Portability Period						
<b>Tab 5</b>	<b>SB 324</b> by <b>Brandes</b> ; (Identical to H 01391) Limitations on Homestead Assessments						
244756	A	S	RCS	CA, Brandes	Delete L.306:	03/13 09:24 AM	
<b>Tab 6</b>	<b>CS/SB 540</b> by <b>CJ, Book (CO-INTRODUCERS) Berman</b> ; (Similar to H 00851) Human Trafficking						
237898	D	S	RCS	CA, Book	Delete everything after	03/14 12:28 PM	
<b>Tab 7</b>	<b>SB 568</b> by <b>Diaz (CO-INTRODUCERS) Pizzo</b> ; (Identical to H 00443) Assessment of Property						
865756	D	S	RCS	CA, Diaz	Delete everything after	03/13 03:07 PM	
<b>Tab 8</b>	<b>SB 856</b> by <b>Gruters</b> ; (Identical to H 01151) Homestead Exemptions						

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMUNITY AFFAIRS**  
**Senator Flores, Chair**  
**Senator Farmer, Vice Chair**

**MEETING DATE:** Tuesday, March 12, 2019

**TIME:** 4:00—6:00 p.m.

**PLACE:** 301 Senate Building

**MEMBERS:** Senator Flores, Chair; Senator Farmer, Vice Chair; Senators Broxson, Pizzo, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 728</b> Lee (Similar CS/H 437)	Growth Management; Authorizing sufficiently contiguous lands located within the county or municipality which a petitioner anticipates adding to the boundaries of a new community development district to also be identified in a petition to establish the new district under certain circumstances; providing requirements for the petition; providing notification requirements for the petition, etc.  CA 03/12/2019 Favorable IS RC	Favorable Yeas 5 Nays 0
2	<b>SB 806</b> Perry (Similar CS/H 167)	Local Government Public Construction Works; Requiring the governing board of a local government to consider estimated costs of certain projects using generally accepted cost-accounting principles that account for specified costs when making a specified determination; requiring that a local government that performs projects using its own services, employees, and equipment disclose the actual costs of the project after completion to the Auditor General; requiring estimated total construction project costs for certain projects to include specified costs, etc.  CA 03/12/2019 Favorable GO RC	Favorable Yeas 5 Nays 0
3	<b>SB 902</b> Perry (Similar H 447)	Open and Expired Building Permits; Specifying conditions under which a building permit is considered an open permit, expired permit, or closed permit; authorizing an open or expired permit to be closed on by or on behalf of the current property owner if certain requirements are met; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit under certain circumstances, etc.  CA 03/12/2019 Favorable IT RC	Favorable Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, March 12, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SJR 326</b> Brandes (Identical HJR 1389, Compare H 1391, Linked S 324)	Homestead Property Tax Assessments/Increased Portability Period; Proposing amendments to the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead and to provide an effective date, etc.  CA 03/12/2019 Favorable FT AP	Favorable Yeas 5 Nays 0
5	<b>SB 324</b> Brandes (Identical H 1391, Compare HJR 1389, Linked SJR 326)	Limitations on Homestead Assessments; Revising the timeframe during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead; revising the timeframe during which an owner of homestead property significantly damaged or destroyed by a named tropical storm or hurricane must establish a new homestead to make a certain election, etc.  CA 03/12/2019 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
6	<b>CS/SB 540</b> Criminal Justice / Book (Similar H 851)	Human Trafficking; Requiring a public lodging establishment to train certain employees and create certain policies relating to human trafficking by a specified date; requiring the Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, to establish a certain direct-support organization; requiring that the criminal history record of a person who is convicted of, or enters a plea of guilty or nolo contendere to, soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation be added to the Soliciting for Prostitution Registry, etc.  CJ 02/19/2019 Fav/CS CA 03/12/2019 Fav/CS AP	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Community Affairs

Tuesday, March 12, 2019, 4:00—6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 568</b> Diaz (Identical H 443)	Assessment of Property; Authorizing local governments to enter into agreements with certain property owners to authorize the local governments to record specified restrictive covenants related to affordable housing; authorizing such covenants to contain resale restrictions and to be amended or supplemented under certain circumstances; requiring property appraisers to consider such restrictive covenants in arriving at the just value of such properties, etc.  CA 03/12/2019 Fav/CS FT AP	Fav/CS Yeas 5 Nays 0
8	<b>SB 856</b> Gruters (Identical H 1151)	Homestead Exemptions; Specifying that a person must knowingly and intentionally receive or claim a certain ad valorem tax exemption or credit in another state to be disqualified from a certain homestead exemption; providing that certain property is not subject to the assessment of exempted taxes, penalties, and interest under certain circumstances, etc.  CA 03/12/2019 Favorable FT AP	Favorable Yeas 5 Nays 0

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 728  
 INTRODUCER: Senator Lee  
 SUBJECT: Growth Management  
 DATE: March 11, 2019      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	<b>Favorable</b>
2.	_____	_____	IS	_____
3.	_____	_____	RC	_____

**I. Summary:**

SB 728 authorizes Community Development Districts (CDDs) of less than 2,500 acres and solely in one county or municipality to include a list of parcels in the CDD’s establishment petition that the CDD expects to add within the next 10 years. A parcel may only be included with the consent of the landowner. The bill provides a process for expanding the boundaries of the CDD to include these additional parcels. The bill also provides that the expansion of CDD boundaries to include these parcels does not alter the time period for transition from a landowner board to a board composed of qualified electors under s. 190.006, F.S., and states that the parcels may be added even if the resulting CDD is greater than 2,500 acres.

The bill provides that a CDD may also merge with another type of special district created by special act under certain circumstances.

**II. Present Situation:**

**Overview**

In general terms, a community development district (CDD) is a “local unit of special-purpose government”<sup>1</sup> which is often created to facilitate the funding and management of new housing developments.

Expanding a CDD involves a somewhat different process depending on its original size. For CDDs that began as less than 2,500 acres in size, a person must file a petition with the county. For larger CDDs, a person must file a petition, along with a \$1,500 filing fee, with the Florida Land and Water Adjudicatory Commission (FLWAC). Then, in either case, a public hearing must be held.

<sup>1</sup> Section 190.003(6), F.S.

However, special requirements apply if someone is seeking a particularly large expansion of a CDD. Any expansion of more than 50 percent of the initial size of the CDD or more than 1,000 acres must be processed according to the statute that governs creation of a new CDD.

### **CDDs in General**

Chapter 190, F.S., the “Uniform Community Development District Act of 1980,”<sup>2</sup> sets forth the exclusive and uniform procedures for establishing and operating a community development district (CDD).<sup>3</sup> This type of independent special district<sup>4</sup> is an alternative method to manage and finance basic services for community development.<sup>5</sup> There are currently 685 active CDDs in Florida.<sup>6</sup>

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general-purpose government.<sup>7</sup> CDDs have certain general powers, including the authority to:

- Assess and impose ad valorem taxes upon lands in the CDD;
- Bring lawsuits (and be sued);
- Participate in the state retirement system;
- Contract for services;
- Borrow money;
- Accept gifts;
- Adopt rules and orders pursuant to the Administrative Procedure Act (APA);<sup>8</sup>
- Maintain an office;
- Lease;
- Issue bonds;
- Raise money by user charges or fees; and
- Levy and enforce special assessments.<sup>9</sup>

The statutes also authorizes additional special powers pertaining to public improvements and community facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.<sup>10</sup> With the consent of

<sup>2</sup> Section 190.001, F.S.

<sup>3</sup> Sections 190.004 and 190.005, F.S.

<sup>4</sup> A “special district” is “a unit of local government created for a special purpose... within a limited geographic boundary ... created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” Section 189.012(6), F.S. An “independent special district” is a special district that does not meet any of the criteria listed in s. 189.012(2), F.S. Additionally, any special district including more than one county is an independent special district, unless the district lies wholly within a single municipality. Section 189.012(3), F.S.

<sup>5</sup> Section 190.003(6), F.S.

<sup>6</sup> Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited March 8, 2019).

<sup>7</sup> Section 190.004(3), F.S.

<sup>8</sup> Ch. 120, F.S.

<sup>9</sup> Section 190.011, F.S.

<sup>10</sup> Section 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. Sections 190.005(1)(f) and (2)(d), F.S.

the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for:

- Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- Fire prevention and control;
- School buildings and related structures and site improvements;
- Security;
- Control and elimination of mosquitoes and other arthropods of public health importance; and
- Waste collection and disposal.<sup>11</sup>

### **Establishing a CDD**

#### ***Petition for Rulemaking by the Florida Land and Water Adjudicatory Commission***

The process for establishing a CDD depends upon its size. CDDs of 2,500 acres or more are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)<sup>12</sup> to adopt an administrative rule creating the district.<sup>13</sup> The statute requires each petition to contain specified information, including the written consent to establishing the CDD by all landowners<sup>14</sup> of real property to be included in the district.<sup>15</sup> Prior to filing, the petitioner must submit copies of the petition and pay separate filing fees of \$15,000 each to the county and any municipality in which the proposed CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district.<sup>16</sup> The counties and municipalities required to receive copies of the petition may conduct public hearings and express support or objection to the proposed district by resolution and by stating their position before the FLWAC.<sup>17</sup> Additionally, a public hearing on the petition must be held in the county where the CDD will be located; these hearings are conducted under the requirements of the Administrative Procedure Act (APA)<sup>18</sup> before an administrative law judge.<sup>19</sup> Once the hearing process is complete, the entire record is submitted to the FLWAC, reviewed by staff, and placed on the

<sup>11</sup> Section 190.012(2), F.S.

<sup>12</sup> Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet (Section 20.03, F.S., provides that “Cabinet” means the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture). This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least two Cabinet members.

<sup>13</sup> Section 190.005(1), F.S.

<sup>14</sup> “Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years. Section 190.003(14), F.S.

<sup>15</sup> Section 190.005(1)(a), F.S.

<sup>16</sup> Section 190.005(1)(b), F.S.

<sup>17</sup> Section 190.005(1)(c), F.S.

<sup>18</sup> See ch. 120, F.S. The general hearing requirements are stated in ss. 120.569 and 120.57(1), F.S.

<sup>19</sup> Section 190.005(1)(d), F.S.; Rules 42-1.009 & 42-1.012, F.A.C. Chapter 42-1, F.A.C., the procedural rules of the FLWAC, remains substantially unchanged since its adoption in 1982.

FLWAC meeting agenda for final consideration with the petition.<sup>20</sup> If the petition is approved, staff of the FLWAC initiates proceedings to adopt the rule creating the CDD.

### ***Petition for Ordinance Creating a CDD***

CDDs of less than 2,500 acres are generally established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located.<sup>21</sup> A petition to establish a CDD is filed with the county commission.<sup>22</sup> After conducting a local public hearing before a hearing officer,<sup>23</sup> the commission may adopt an ordinance creating the CDD.<sup>24</sup> If any of the land proposed for inclusion in the CDD lies within the area of a municipality, the county cannot create the district without approval of the affected municipality.<sup>25</sup>

However, if all the land proposed for inclusion in the CDD lies within the territorial jurisdiction of a municipality, the petition is filed with that municipality which then exercises the duties otherwise performed by the county commission.<sup>26</sup> In this case, the CDD would be created by municipal ordinance. Within 90 days after receiving the petition, the county commission (or municipality, as applicable) may transfer the petition to the FLWAC.<sup>27</sup> Finally, if all the land of the proposed CDD lies within the territorial jurisdiction of two or more municipalities or two or more counties, the petition must be filed with the FLWAC even if the total area is less than 2,500 acres.<sup>28</sup>

### **Requirements for Notice, Meeting, and Vote of Landowners in a CDD**

The powers of a CDD are exercised by the board of supervisors elected by the landowners of the district.<sup>29</sup> The board must have five members serving 2- or 4-year terms.<sup>30</sup> The initial members of the board are designated in the original petition to create the CDD and serve until new members are elected after the district is established.<sup>31</sup> A meeting of landowners for the purpose of electing the board must be held within 90 days after the effective date of the rule or ordinance creating the district.<sup>32</sup> Each landowner is entitled to one vote for each acre owned.<sup>33</sup> The top two candidates are elected to 4-year terms, while the next three candidates are elected to 2-year terms.<sup>34</sup> A new board election, held among the qualified electors of the district, occurs when either the board proposes to exercise its ad valorem taxing authority or 6 years after the

<sup>20</sup> Section 190.005(1)(e), F.S. A similar process is followed when the FLWAC considers a proposed merger of existing CDDs. *See* FLWAC Agenda Item 1 dated Aug. 16, 2011, *available at*

<http://www.myflorida.com/myflorida/cabinet/agenda11/0816/FLWAC0816.pdf> (last visited March 8, 2019).

<sup>21</sup> Section 190.005(2), F.S.

<sup>22</sup> Section 190.005(2)(a), F.S. The petition must contain the same information as required for submission to the FLWAC.

<sup>23</sup> Section 190.005(2)(b), F.S. The hearing must follow the same notice and procedural requirements as the local hearing for petitions before the FLWAC.

<sup>24</sup> *See* s. 190.005(2)(d), F.S.

<sup>25</sup> Section 190.005(2)(e), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 190.005(2)(f), F.S.

<sup>28</sup> Section 190.005(2)(e), F.S.

<sup>29</sup> Section 190.006(1), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> Sections 190.005(1)(a)3., and 190.006(2)(a), F.S.

<sup>32</sup> Section 190.006(2)(a), F.S.

<sup>33</sup> Section 190.006(2)(b), F.S.

<sup>34</sup> *Id.*



formation of the district (10 years for districts exceeding 5,000 acres).<sup>35</sup> Elections of board members by qualified electors are non-partisan general elections conducted by the supervisor of elections.<sup>36</sup>

### **Financial Reporting by a CDD**

CDDs are subject to the financial reporting requirements of Chs., 189, 190, and 218, F.S.<sup>37</sup> The district manager is responsible for drafting a proposed budget on or before June 15 of each year.<sup>38</sup> The board of the CDD considers the proposed budget, makes amendments as necessary, and adopts the budget by resolution.<sup>39</sup> After the board adopts the budget, a public hearing on the budget is held and the board may make further changes as it deems necessary.<sup>40</sup> At least 60 days prior to adoption, the district is required to submit its budget to the local government entities having jurisdiction over the area.<sup>41</sup> This submission is for the purposes of disclosure and information only, but the local government entities may submit written comments to the CDD board.<sup>42</sup> CDDs are also required to take affirmative steps to provide full disclosure of information related to public financing and maintenance of improvements constructed by the district.<sup>43</sup> The district must provide any developer of residential property in the district with sufficient copies of this information to be able to provide a copy to each prospective initial purchaser of property.<sup>44</sup> Districts must file disclosures of this information in the property records of each county in which the district is located.<sup>45</sup> The Department of Economic Opportunity (DEO) is required to keep a current list of districts and their disclosures of public financing.<sup>46</sup>

CDDs, like other special districts, also must comply with the annual financial reporting and financial audit reporting requirements of Ch. 218, F.S.<sup>47</sup> A CDD with revenues or total expenditures or expenses in excess of \$100,000 is required to have an annual audit conducted by an independent certified public accountant.<sup>48</sup> The auditor shall review the financial accounts and records of the district, reports on compliance and internal control, management letters, and financial statements, as required by rules adopted by the Auditor General.<sup>49</sup> The auditor must present these findings to the chair of the district's governing board and submit a copy of the

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<sup>35</sup> Sections 190.006(3)(a)1.-2., F.S. For CDDs with less than certain minimum numbers of qualified electors after 6 or 10 years, as applicable, the district landowners shall continue to elect the board members (s. 190.006(3)(a)2.a., F.S.) until the number of qualified electors in the district exceeds the statutory minimum (s. 190.006(3)(a)2.b., F.S.).

<sup>36</sup> Section 190.006(3)(b), F.S. The statute does not specify which supervisor of elections conducts the board election if the district encompasses property in more than one county.

<sup>37</sup> Sections 189.016 and 190.008(1), F.S.

<sup>38</sup> Section 190.008(2)(a), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Section 190.008(2)(b), F.S.

<sup>42</sup> Section 190.008(2)(b)-(c), F.S.

<sup>43</sup> Section 190.009(1), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Section 190.009(2), F.S.

<sup>47</sup> Sections 189.016(9), F.S. and 190.008(1), F.S.

<sup>48</sup> Section 218.39(1), F.S. An entity is exempt from this requirement if it is informed by the first day of the fiscal year that the Auditor General will be conducting an audit of the entity for that fiscal year.

<sup>49</sup> Section 218.39(2), F.S. The rules of the Auditor General are Rules 10.550, 10.650, 10.700, 10.800, and 10.850, F.A.C. See Rule 61H1-20.0093, F.A.C.

report to the Auditor General.<sup>50</sup> The audit report is a public record once the report is submitted by the auditor to the district.<sup>51</sup> All CDDs are required to file an annual financial report with the Department of Financial Services.<sup>52</sup>

### **Expansion or Contraction of a CDD**

A landowner or the board of a CDD may petition for the boundaries of the district to be expanded or contracted.<sup>53</sup> If the petition seeks to expand the district boundaries, the petition must include a proposed timetable for the construction of any district services in the new area, the estimated cost of constructing the proposed services, and the designation of the future land use plan for the area from the relevant local government local comprehensive plan.<sup>54</sup> If the petition seeks to contract the district boundaries, the petition must include a list of services and facilities currently provided by the district to the removed area, as well as the future land use plan for the area from the relevant local government local comprehensive plan.<sup>55</sup>

For districts established by county ordinance, the petition for expansion or contraction must be filed with the county commission, but there is no filing fee requirement.<sup>56</sup> The county commission then conducts a public hearing on the petition in the same manner as for other ordinance amendments. For districts established by FLWAC rule, the petitioner must pay a \$1,500 filing fee to each county or municipality in which the proposed resulting CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district, and the required public meeting is conducted by the board of the CDD instead of a hearing officer.<sup>57</sup>

The amount of land that can be added to a CDD is restricted. Whether a district was initially established by FLWAC rule or county or municipal ordinance, the cumulative additions to the district may not be greater than the lesser of 50 percent of the land area of the initial district or 1,000 acres.<sup>58</sup>

### **Merger of a CDD**

A CDD may be merged with another CDD with the filing of a petition for merger that states the elements for establishing a new CDD, including being evaluated by the criteria for creating a new district and the submission of the filing fee.<sup>59</sup> A CDD may also be merged with other types of special districts using the process for creating a new district, with the CDD inheriting the rights and associated obligations of property and creditors of the merged special district(s).<sup>60</sup> A CDD merging with another type of special district is required to enter a merger agreement to

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<sup>50</sup> Sections 218.39(5) and (7), F.S.

<sup>51</sup> *See* s. 119.0713(2)(b), F.S.

<sup>52</sup> Section 218.32(1)(a), F.S.

<sup>53</sup> Section 190.046(1), F.S.

<sup>54</sup> Section 190.046(1)(a), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 190.046(1)(b), F.S.

<sup>57</sup> Section 190.046(1)(d)1.-4., F.S.

<sup>58</sup> Section 190.046(1)(e), F.S.

<sup>59</sup> Section 190.046(3), F.S.

<sup>60</sup> *Id.*

allocate indebtedness to be assumed by the new CDD and the process for retiring the debt.<sup>61</sup> The approval of the merger agreement and the petition by the board of supervisors of the CDD is deemed to constitute the consent of the district landowners.<sup>62</sup>

A CDD may also be merged with up to four other CDDs created by the same local general-purpose government, as long as the membership of each board of directors is composed entirely of qualified electors.<sup>63</sup> This method may be used even if the merged district would have been required to receive FLWAC approval if the CDD was being newly created. The filing of a petition approved by the board of each CDD applying constitutes consent of the landowners within each district.

Before filing the merger petition, each CDD must hold a public hearing to take comments on the proposed merger, the merger agreement, and the assignment of board seats.<sup>64</sup> The hearing must be noticed at least 14 days beforehand. If any CDD withdraws after the public hearing, the remaining districts considering merger must hold a public hearing on a revised merger agreement between the remaining parties. The petition may not be filed for at least 30 days after the last public hearing.

### III. Effect of Proposed Changes:

**Section 1** amends s. 190.046, F.S., to provide that a petition to establish a new CDD of less than 2,500 acres located solely in one county or municipality may identify “sufficiently contiguous” lands beyond the CDD’s boundaries which the petitioner anticipates expanding the CDD to include within 10 years after the effective date of the ordinance establishing the district. However, these additional lands must be within the same county or municipality as the CDD. Additionally, the petition must include a legal description of each additional parcel within the sufficiently contiguous land, the current owner of the parcel, the acreage of each additional parcel, and the current land use designation of each parcel. The petitioner must provide notice to the current owner of each such parcel of the filing of the petition, the date and time of the public hearing on the petition, and the name and address of the petitioner at least 14 days before the public hearing pursuant to s. 190.005(2)(b), F.S., concerning the creation of the CDD. A parcel may only be included with written consent of the landowner.

After the district is established, a person may then petition the county or municipality to amend the boundaries of the CDD to include the previously identified parcel that was a proposed addition to the CDD before its establishment. A filing fee may not be charged for this petition. Additionally, each petition must include:

- A legal description by metes and bounds of the parcel to be added;
- A new legal description by metes and bounds of the district;
- Written consent of all landowners of the parcels to be added;
- A map of the district including the parcel to be added;
- A description of the development proposed on the additional parcel; and

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<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Section 190.046(4)(a), F.S.

<sup>64</sup> Section 190.046(4)(c), F.S.

- A copy of the original petition identifying the parcel to be added.

Before filing the petition with the county or municipality, the person must provide the petition to the district and to the owner of the proposed additional parcel, if the owner is not the petitioner.

Once the petition is determined to be sufficient and complete, the county or municipality must process the addition of the parcel to the CDD as an amendment to the ordinance that establishes the district. The county or municipality may process all petitions to amend the ordinance, even if, after adding such parcels, the district exceeds 2,500 acres.

The petitioner must publish a notice of the intent to amend the ordinance that establishes the district in a newspaper of general circulation in the proposed district. This notice is in addition to any notice required for the adoption of the ordinance amendment. The notice must be published at least 10 days before the scheduled hearing on the ordinance amendment and may be published in the section of the newspaper reserved for legal notices. The notice must include a general description of the land to be added to the district and the date and the time of the scheduled hearing to amend the ordinance. The petitioner must mail or hand-deliver the notice of the hearing on the ordinance amendment to the owner of the parcel and to the district at least 14 days before the scheduled hearing.

The amendment of a district by the addition of a parcel does not alter the transition from landowner voting to qualified elector voting pursuant to s. 190.006, F.S., even if the total size of the district after the addition exceeds 5,000 acres. After adoption of the ordinance expanding the district, the petitioner must cause to be recorded a notice of boundary amendment which reflects the new boundaries of the district.

The bill provides that this new method of adding lands to a district does not preclude the addition of lands using procedures in other provisions of s. 190.046, F.S.

The bill also provides that a CDD may also merge with another type of special district created by special act pursuant to the terms of that special act or by filing a petition for establishment of a new district in accordance with s. 190.005, F.S.

**Section 2** provides that the bill will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Line 71 states that “a person” may petition the county or municipality to amend the boundaries of the CDD to include a previously identified parcel that was a proposed addition to the district before its establishment. It is unclear if this provision could be exercised by persons other than the board of the district or the landowner of the property to be added.

Similarly, line 88 states that the “person” must provide the petition to the CDD and to the owner of the proposed additional parcel before filing the county or municipality if the owner is not the petitioner.

**VIII. Statutes Affected:**

This bill substantially amends section 190.046 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 728

Topic Community Development Districts

Amendment Barcode (if applicable)

Name David Ramba

Job Title Attorney

Address 120 S. Monroe St.

Phone 850 727 7087

Street Trautmansee, Fl  
City Trautmansee, Fl State Fl Zip 32301

Email david@rambala.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Neel Communities

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3.12.19

Bill Number (if applicable) 728

Topic Community Development Districts

Amendment Barcode (if applicable)

Name Cheryl Stewart

Job Title Hopping Green & Sons

Address 119 S Monroe Ste 300

Phone 2227500

Street Tallahassee City FL State 32301 Zip

Email cherylstewart

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Association of Florida Community Developers & Realtors

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



By Senator Lee

20-01365-19

2019728\_\_

1                           A bill to be entitled  
 2       An act relating to growth management; amending s.  
 3       190.046, F.S.; authorizing sufficiently contiguous  
 4       lands located within the county or municipality which  
 5       a petitioner anticipates adding to the boundaries of a  
 6       new community development district to also be  
 7       identified in a petition to establish the new district  
 8       under certain circumstances; providing requirements  
 9       for the petition; providing notification requirements  
 10      for the petition; prohibiting a parcel from being  
 11      included in the district without the written consent  
 12      of the owner of the parcel; authorizing a person to  
 13      petition the county or municipality to amend the  
 14      boundaries of the district to include a certain parcel  
 15      after establishment of the district; prohibiting a  
 16      filing fee for such petition; providing requirements  
 17      for the petition; requiring the person to provide the  
 18      petition to the district and to the owner of the  
 19      proposed additional parcel before filing the petition  
 20      with the county or municipality; requiring the county  
 21      or municipality to process the addition of the parcel  
 22      to the district as an amendment to the ordinance that  
 23      establishes the district once the petition is  
 24      determined sufficient and complete; authorizing the  
 25      county or municipality to process all such petitions  
 26      even if the addition exceeds specified acreage;  
 27      providing notice requirements for the intent to amend  
 28      the ordinance establishing the district; providing  
 29      that the amendment of a district by the addition of a

Page 1 of 6

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

20-01365-19

2019728\_\_

30      parcel does not alter the transition from landowner  
 31      voting to qualified elector voting; requiring the  
 32      petitioner to cause to be recorded a certain notice of  
 33      boundary amendment upon adoption of the ordinance  
 34      expanding the district; providing construction;  
 35      authorizing community development districts to merge  
 36      with another type of special district created by  
 37      special act or by filing a petition for establishment  
 38      of a new district; authorizing a community development  
 39      district merging with another type of district to  
 40      enter into merger agreements for certain purposes;  
 41      providing an effective date.

42  
 43    Be It Enacted by the Legislature of the State of Florida:

44  
 45                   Section 1. Paragraph (h) is added to subsection (1) of  
 46       section 190.046, Florida Statutes, and subsection (3) of that  
 47       section is amended, to read:

48                   190.046 Termination, contraction, or expansion of  
 49       district.—

50                   (1) A landowner or the board may petition to contract or  
 51       expand the boundaries of a community development district in the  
 52       following manner:

53                   (h) For a petition to establish a new community development  
 54       district of less than 2,500 acres on land located solely in one  
 55       county or one municipality, sufficiently contiguous lands  
 56       located within the county or municipality which the petitioner  
 57       anticipates adding to the boundaries of the district within 10  
 58       years after the effective date of the ordinance establishing the

Page 2 of 6

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

20-01365-19 2019728\_\_  
 59 district may also be identified. If such sufficiently contiguous  
 60 land is identified, the petition must include a legal  
 61 description of each additional parcel within the sufficiently  
 62 contiguous land, the current owner of the parcel, the acreage of  
 63 the parcel, and the current land use designation of the parcel.  
 64 At least 14 days before the hearing required under s.  
 65 190.005(2)(b), the petitioner must give the current owner of  
 66 each such parcel notice of filing the petition to establish the  
 67 district, the date and time of the public hearing on the  
 68 petition, and the name and address of the petitioner. A parcel  
 69 may not be included in the district without the written consent  
 70 of the owner of the parcel.

71 1. After establishment of the district, a person may  
 72 petition the county or municipality to amend the boundaries of  
 73 the district to include a previously identified parcel that was  
 74 a proposed addition to the district before its establishment. A  
 75 filing fee may not be charged for this petition. Each such  
 76 petition must include:

77 a. A legal description by metes and bounds of the parcel to  
 78 be added;

79 b. A new legal description by metes and bounds of the  
 80 district;

81 c. Written consent of all owners of the parcel to be added;

82 d. A map of the district including the parcel to be added;

83 e. A description of the development proposed on the  
 84 additional parcel; and

85 f. A copy of the original petition identifying the parcel  
 86 to be added.

87 2. Before filing with the county or municipality, the

20-01365-19 2019728\_\_  
 88 person must provide the petition to the district and to the  
 89 owner of the proposed additional parcel, if the owner is not the  
 90 petitioner.

91 3. Once the petition is determined sufficient and complete,  
 92 the county or municipality must process the addition of the  
 93 parcel to the district as an amendment to the ordinance that  
 94 establishes the district. The county or municipality may process  
 95 all petitions to amend the ordinance for parcels identified in  
 96 the original petition, even if, by adding such parcels, the  
 97 district exceeds 2,500 acres.

98 4. The petitioner shall cause to be published in a  
 99 newspaper of general circulation in the proposed district a  
 100 notice of the intent to amend the ordinance that establishes the  
 101 district. The notice must be in addition to any notice required  
 102 for adoption of the ordinance amendment. Such notice must be  
 103 published at least 10 days before the scheduled hearing on the  
 104 ordinance amendment and may be published in the section of the  
 105 newspaper reserved for legal notices. The notice must include a  
 106 general description of the land to be added to the district and  
 107 the date and time of the scheduled hearing to amend the  
 108 ordinance. The petitioner shall deliver, including by mail or  
 109 hand delivery, the notice of the hearing on the ordinance  
 110 amendment to the owner of the parcel and to the district at  
 111 least 14 days before the scheduled hearing.

112 5. The amendment of a district by the addition of a parcel  
 113 pursuant to this paragraph does not alter the transition from  
 114 landowner voting to qualified elector voting pursuant to s.  
 115 190.006, even if the total size of the district after the  
 116 addition of the parcel exceeds 5,000 acres. Upon adoption of the

20-01365-19

2019728\_\_

117 ordinance expanding the district, the petitioner must cause to  
 118 be recorded a notice of boundary amendment which reflects the  
 119 new boundaries of the district.

120 6. This paragraph is intended to facilitate the orderly  
 121 addition of lands to a district under certain circumstances and  
 122 does not preclude the addition of lands to any district using  
 123 the procedures in the other provisions of this section.

124 (3) The district may merge with other community development  
 125 districts upon filing a petition for merger, which petition  
 126 shall include the elements set forth in s. 190.005(1) and which  
 127 shall be evaluated using the criteria set forth in s.  
 128 190.005(1)(e). The filing fee shall be as set forth in s.  
 129 190.005(1)(b). In addition, the petition shall state whether a  
 130 new district is to be established or whether one district shall  
 131 be the surviving district. A community development district may  
 132 also merge with another type of special district created by  
 133 special act pursuant to the terms of that special act or by  
 134 filing a petition for establishment of a new ~~The district may~~  
 135 ~~merge with any other special districts upon filing a petition~~  
 136 ~~for establishment of a community development~~ district pursuant  
 137 to s. 190.005. The government formed by a merger involving a  
 138 community development district pursuant to this section shall  
 139 assume all indebtedness of, and receive title to, all property  
 140 owned by the preexisting special districts, and the rights of  
 141 creditors and liens upon property are ~~shall~~ not ~~be~~ impaired by  
 142 such merger. Any claim existing or action or proceeding pending  
 143 by or against any district that is a party to the merger may be  
 144 continued as if the merger had not occurred, or the surviving  
 145 district may be substituted in the proceeding for the district

Page 5 of 6

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20-01365-19

2019728\_\_

146 that ceased to exist. Prior to filing a ~~the~~ petition, the  
 147 districts desiring to merge shall enter into a merger agreement  
 148 and shall provide for the proper allocation of the indebtedness  
 149 so assumed and the manner in which such debt shall be retired.  
 150 The approval of the merger agreement and the petition by the  
 151 board of supervisors of the district shall constitute consent of  
 152 the landowners within the district. A community development  
 153 district merging with another type of district may also enter  
 154 into a merger agreement to address issues of transition,  
 155 including the allocation of indebtedness and retirement of debt.

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

Page 6 of 6

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



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 806

INTRODUCER: Senator Perry

SUBJECT: Local Government Public Construction Works

DATE: March 11, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	<b>Favorable</b>
2.			GO	
3.			RC	

---

**I. Summary:**

SB 806 specifies the manner in which the estimated cost of a public building construction project must be determined when a local government governing board is deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment. Specifically, the bill requires the estimated cost of the project to be determined using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and the cost of materials.

For county construction and reconstruction projects of roads and bridges utilizing proceeds from the constitutional gas tax, the bill specifies that total construction project costs must include all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and the cost of materials.

**II. Present Situation:**

**Procurement of Construction Services**

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. The Department of Management Services is responsible for establishing the following by rule:

- Procedures for determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and

- Procedures for entering into performance-based contracts for the development of public facilities when those contracts are determined to be in the best interest of the state.<sup>1</sup>

Counties, municipalities, special districts, and other political subdivisions seeking to construct or improve a public building, structure, or other public construction works must competitively award the project if the projected cost is in excess of \$300,000.<sup>2</sup> For electrical work, local governments must competitively award projects estimated to cost more than \$75,000. Section 255.20(1), F.S., provides that the term “competitively award” means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation.

### **Exemption from Competitive Solicitation for Local Governments Performing Work**

If the governing board of a local government seeking to construct or improve a public building or structure conducts a public meeting and finds by majority vote that it is in the public’s best interest to perform the project using its own services, employees, and equipment, then the local government is exempt from the requirement to competitively award the contract for the project.<sup>3</sup> The meeting of the governing board must have been publicly noticed at least 21 days before the date of the public meeting at which the governing board takes final action. The notice must identify the project, the components and scope of the project, and the estimated cost of the project using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the project, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and materials. The notice must state that the purpose of the meeting is to consider whether it is in the best interest of the public to perform the project using the local government’s own services, employees, and equipment.<sup>4</sup>

At the public meeting, the governing board must allow any qualified contractor or vendor who could have been awarded the project had the project been competitively bid to present evidence regarding the project and the accuracy of the local government’s estimated cost of the project. In making a determination, the governing board must consider the estimated cost of the project and the accuracy of the estimated cost in light of any other information that may be presented at the public meeting. In addition, the board must consider whether the project requires an increase in the number of government employees or an increase in capital expenditures for public facilities, equipment, or other capital assets. The governing body may further consider the impact on local economic development, the impact on small and minority business owners, the impact on state and local tax revenues, whether the private sector contractors provide health insurance and other benefits equivalent to those provided by the local government, and any other factor relevant to what is in the public’s best interest.<sup>5</sup>

---

<sup>1</sup> Section 255.29, F.S.

<sup>2</sup> Section 255.20(1), F.S.

<sup>3</sup> Section 255.20(1)(c)9., F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

## Construction and Maintenance of Roads and Bridges

Current law authorizes counties to employ labor and provide road equipment to construct and open new roads or bridges and to repair and maintain any existing roads and bridges under certain circumstances.<sup>6</sup> However, counties must competitively bid and award to the lowest bidder all projects for construction and reconstruction of roads and bridges, including resurfacing, that utilize the proceeds of the 80 percent portion of the surplus of the constitutional gas tax.<sup>7</sup> An exception to this requirement allows a county to use its own forces for these construction and reconstruction projects under the following circumstances:

- Construction and maintenance in emergency situations;
- When a construction or reconstruction project has a total cumulative annual value not to exceed five percent of its 80-percent portion of the constitutional gas tax or \$400,000, whichever is greater; or
- When constructing sidewalks, curbing, accessibility ramps, or appurtenances incidental to roads and bridges if each project is estimated in accordance with generally accepted cost-accounting principles to have total construction project costs of less than \$400,000.<sup>8</sup>

In addition, if, after proper advertising, the county receives no bids for a specific project, the county may use its own forces to construct the project. A county is not prohibited from performing routine maintenance as authorized by law.<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 255.20, F.S., relating to local bids and contracts for public construction works. The bill specifies the manner in which the estimated cost of a public building construction project must be determined when a local government governing board is deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment. The bill requires the estimated cost of the project to be determined using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and the cost of materials.

The bill prohibits the local government from performing the project using its own services, employees, and equipment if the project requires an increase in the number of government employees or an increase in such capital expenditures.

The bill requires a local government that performs a public building construction project using its own services, employees, and equipment to disclose the actual costs of the project after completion to the Auditor General, who must review such disclosures as part of his or her routine audits of local governments.

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<sup>6</sup> See s. 336.41, F.S.

<sup>7</sup> Section 336.41(4), F.S. An excise or license tax of 2 cents per net gallon, which is the tax as levied by s. 16, Art. IX of the State Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 State Constitution, as amended, which is therein referred to as the "second gas tax," and which is hereby designated the "constitutional fuel tax." See s. 206.41(1)(a), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

**Section 2** amends s. 336.41, F.S., relating to the construction and reconstruction of roads and bridges by counties utilizing proceeds from the constitutional gas tax. The bill specifies that estimated total construction project costs must include all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and the cost of materials.

**Section 3** provides an effective date of July 1, 2019.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any increase in projects awarded to private contractors would result in a positive fiscal impact on the private sector.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact on local governments if the estimated cost for a local government to complete a construction project causes governing boards to select private contractors that can perform the projects at a lower cost.

**VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 255.20 and 336.41 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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693864

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/13/2019	.	
	.	
	.	
	.	

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The Committee on Community Affairs (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 155 - 158  
and insert:  
other capital assets. The local

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

And the title is amended as follows:

Delete lines 8 - 12  
and insert:



693864

11

determination; requiring

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3-12-12

Bill Number (if applicable) 806

Topic Construction works

Amendment Barcode (if applicable)

Name Bolt Farrell

Job Title Electician

Address 7018 SW 46th Ave

Phone 352-65-4986

City Gainesville State FL Zip 32608

Email

Speaking:  For  Against  Information  In Support  Against  
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3-12-19

Amendment Barcode (if applicable) \_\_\_\_\_  
Bill Number (if applicable) 5B 206

Topic Public Constructors

Name Cam Ventress

Job Title Gen. Contractor

Address 1408 Village Sq # 3-243

City Wke State FL Zip 32312

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLA. ROOFING & SHEET METAL CONTRACTORS ASSN

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 806

Topic Local Government Public Construction Works

Amendment Barcode (if applicable)

Name Scott Jenkins

Job Title Lobbyist

Address 113 E. College Ave Ste 200

Phone 850 661 0829

Street TLH) City FL State 32301 Zip

Email scott@wilmington.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Utility Contractors Assoc. of Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

Duplicate

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03-12-2019

806

Meeting Date

Bill Number (if applicable)

Topic Local Government Public Construction Works

Amendment Barcode (if applicable)

Name Warren Husband

Job Title

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing Florida Associated General Contractors Council

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date ~~8/30~~ 3/12/25

Bill Number (if applicable) 806

Topic Local Government Public Construction Amendment Barcode (if applicable)

Name JEFF BRADSHAW

Job Title Legislative Associate

Address Street Tallahassee FL 32302 Phone 901-363-701

City Tallahassee State FL Zip 32302 Email

Speaking: For Against Information Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida League of Cities Lobbyist registered with Legislature: Yes No

Appearing at request of Chair: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.



By Senator Perry

8-00922A-19

2019806\_\_

1 A bill to be entitled  
 2 An act relating to local government public  
 3 construction works; amending s. 255.20, F.S.;  
 4 requiring the governing board of a local government to  
 5 consider estimated costs of certain projects using  
 6 generally accepted cost-accounting principles that  
 7 account for specified costs when making a specified  
 8 determination; prohibiting a local government from  
 9 performing a project using its own services,  
 10 employees, and equipment if the project requires an  
 11 increase in the number of government employees or an  
 12 increase in certain capital expenditures; requiring  
 13 that a local government that performs projects using  
 14 its own services, employees, and equipment disclose  
 15 the actual costs of the project after completion to  
 16 the Auditor General; requiring that the Auditor  
 17 General review such disclosures as part of his or her  
 18 routine audits of local governments; amending s.  
 19 336.41, F.S.; requiring estimated total construction  
 20 project costs for certain projects to include  
 21 specified costs; providing an effective date.

22  
 23 Be It Enacted by the Legislature of the State of Florida:

24  
 25 Section 1. Paragraph (c) of subsection (1) of section  
 26 255.20, Florida Statutes, is amended to read:

27 255.20 Local bids and contracts for public construction  
 28 works; specification of state-produced lumber.—

29 (1) A county, municipality, special district as defined in

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

8-00922A-19

2019806\_\_

30 chapter 189, or other political subdivision of the state seeking  
 31 to construct or improve a public building, structure, or other  
 32 public construction works must competitively award to an  
 33 appropriately licensed contractor each project that is estimated  
 34 in accordance with generally accepted cost-accounting principles  
 35 to cost more than \$300,000. For electrical work, the local  
 36 government must competitively award to an appropriately licensed  
 37 contractor each project that is estimated in accordance with  
 38 generally accepted cost-accounting principles to cost more than  
 39 \$75,000. As used in this section, the term "competitively award"  
 40 means to award contracts based on the submission of sealed bids,  
 41 proposals submitted in response to a request for proposal,  
 42 proposals submitted in response to a request for qualifications,  
 43 or proposals submitted for competitive negotiation. This  
 44 subsection expressly allows contracts for construction  
 45 management services, design/build contracts, continuation  
 46 contracts based on unit prices, and any other contract  
 47 arrangement with a private sector contractor permitted by any  
 48 applicable municipal or county ordinance, by district  
 49 resolution, or by state law. For purposes of this section, cost  
 50 includes the cost of all labor, except inmate labor, and the  
 51 cost of equipment and materials to be used in the construction  
 52 of the project. Subject to the provisions of subsection (3), the  
 53 county, municipality, special district, or other political  
 54 subdivision may establish, by municipal or county ordinance or  
 55 special district resolution, procedures for conducting the  
 56 bidding process.

57 (c) The provisions of this subsection do not apply:

58 1. If the project is undertaken to replace, reconstruct, or

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

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59 repair an existing public building, structure, or other public  
 60 construction works damaged or destroyed by a sudden unexpected  
 61 turn of events such as an act of God, riot, fire, flood,  
 62 accident, or other urgent circumstances, and such damage or  
 63 destruction creates:

64 a. An immediate danger to the public health or safety;  
 65 b. Other loss to public or private property which requires  
 66 emergency government action; or  
 67 c. An interruption of an essential governmental service.

68 2. If, after notice by publication in accordance with the  
 69 applicable ordinance or resolution, the governmental entity does  
 70 not receive any responsive bids or proposals.

71 3. To construction, remodeling, repair, or improvement to a  
 72 public electric or gas utility system if such work on the public  
 73 utility system is performed by personnel of the system.

74 4. To construction, remodeling, repair, or improvement by a  
 75 utility commission whose major contracts are to construct and  
 76 operate a public electric utility system.

77 5. If the project is undertaken as repair or maintenance of  
 78 an existing public facility. For the purposes of this paragraph,  
 79 the term "repair" means a corrective action to restore an  
 80 existing public facility to a safe and functional condition and  
 81 the term "maintenance" means a preventive or corrective action  
 82 to maintain an existing public facility in an operational state  
 83 or to preserve the facility from failure or decline. Repair or  
 84 maintenance includes activities that are necessarily incidental  
 85 to repairing or maintaining the facility. Repair or maintenance  
 86 does not include the construction of any new building,  
 87 structure, or other public construction works or any substantial

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88 addition, extension, or upgrade to an existing public facility.  
 89 Such additions, extensions, or upgrades shall be considered  
 90 substantial if the estimated cost of the additions, extensions,  
 91 or upgrades included as part of the repair or maintenance  
 92 project exceeds the threshold amount in subsection (1) and  
 93 exceeds 20 percent of the estimated total cost of the repair or  
 94 maintenance project using generally accepted cost-accounting  
 95 principles that fully account for all costs associated with  
 96 performing and completing the work, including employee  
 97 compensation and benefits, equipment cost and maintenance,  
 98 insurance costs, and materials. An addition, extension, or  
 99 upgrade shall not be considered substantial if it is undertaken  
 100 pursuant to the conditions specified in subparagraph 1. Repair  
 101 and maintenance projects and any related additions, extensions,  
 102 or upgrades may not be divided into multiple projects for the  
 103 purpose of evading the requirements of this subparagraph.

104 6. If the project is undertaken exclusively as part of a  
 105 public educational program.

106 7. If the funding source of the project will be diminished  
 107 or lost because the time required to competitively award the  
 108 project after the funds become available exceeds the time within  
 109 which the funding source must be spent.

110 8. If the local government competitively awarded a project  
 111 to a private sector contractor and the contractor abandoned the  
 112 project before completion or the local government terminated the  
 113 contract.

114 9. If the governing board of the local government complies  
 115 with all of the requirements of this subparagraph, conducts a  
 116 public meeting under s. 286.011 after public notice, and finds

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117 by majority vote of the governing board that it is in the  
 118 public's best interest to perform the project using its own  
 119 services, employees, and equipment. The public notice must be  
 120 published at least 21 days before the date of the public meeting  
 121 at which the governing board takes final action. The notice must  
 122 identify the project, the components and scope of the work, and  
 123 the estimated cost of the project using generally accepted cost-  
 124 accounting principles that fully account for all costs  
 125 associated with performing and completing the work, including  
 126 employee compensation and benefits, equipment cost and  
 127 maintenance, insurance costs, and materials. The notice must  
 128 specify that the purpose for the public meeting is to consider  
 129 whether it is in the public's best interest to perform the  
 130 project using the local government's own services, employees,  
 131 and equipment. Upon publication of the public notice and for 21  
 132 days thereafter, the local government shall make available for  
 133 public inspection, during normal business hours and at a  
 134 location specified in the public notice, a detailed itemization  
 135 of each component of the estimated cost of the project and  
 136 documentation explaining the methodology used to arrive at the  
 137 estimated cost. At the public meeting, any qualified contractor  
 138 or vendor who could have been awarded the project had the  
 139 project been competitively bid shall be provided with a  
 140 reasonable opportunity to present evidence to the governing  
 141 board regarding the project and the accuracy of the local  
 142 government's estimated cost of the project. In deciding whether  
 143 it is in the public's best interest for the local government to  
 144 perform a project using its own services, employees, and  
 145 equipment, the governing board must consider the estimated cost

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146 of the project using generally accepted cost-accounting  
 147 principles that fully account for all costs associated with  
 148 performing and completing the work, including employee  
 149 compensation and benefits, equipment costs and maintenance,  
 150 insurance costs, and the cost of materials, and the accuracy of  
 151 the estimated cost in light of any other information that may be  
 152 presented at the public meeting and whether the project requires  
 153 an increase in the number of government employees or an increase  
 154 in capital expenditures for public facilities, equipment, or  
 155 other capital assets. If the project requires an increase in the  
 156 number of government employees or an increase in such capital  
 157 expenditures, the local government may not perform the project  
 158 using its own services, employees, and equipment. The local  
 159 government may further consider the impact on local economic  
 160 development, the impact on small and minority business owners,  
 161 the impact on state and local tax revenues, whether the private  
 162 sector contractors provide health insurance and other benefits  
 163 equivalent to those provided by the local government, and any  
 164 other factor relevant to what is in the public's best interest.  
 165 A local government that performs projects using its own  
 166 services, employees, and equipment must disclose the actual  
 167 costs of the project after completion to the Auditor General.  
 168 The Auditor General shall review such disclosures as part of his  
 169 or her routine audits of local governments.

170 10. If the governing board of the local government  
 171 determines upon consideration of specific substantive criteria  
 172 that it is in the best interest of the local government to award  
 173 the project to an appropriately licensed private sector  
 174 contractor pursuant to administrative procedures established by

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175 and expressly set forth in a charter, ordinance, or resolution  
 176 of the local government adopted before July 1, 1994. The  
 177 criteria and procedures must be set out in the charter,  
 178 ordinance, or resolution and must be applied uniformly by the  
 179 local government to avoid awarding a project in an arbitrary or  
 180 capricious manner. This exception applies only if all of the  
 181 following occur:

182 a. The governing board of the local government, after  
 183 public notice, conducts a public meeting under s. 286.011 and  
 184 finds by a two-thirds vote of the governing board that it is in  
 185 the public's best interest to award the project according to the  
 186 criteria and procedures established by charter, ordinance, or  
 187 resolution. The public notice must be published at least 14 days  
 188 before the date of the public meeting at which the governing  
 189 board takes final action. The notice must identify the project,  
 190 the estimated cost of the project, and specify that the purpose  
 191 for the public meeting is to consider whether it is in the  
 192 public's best interest to award the project using the criteria  
 193 and procedures permitted by the preexisting charter, ordinance,  
 194 or resolution.

195 b. The project is to be awarded by any method other than a  
 196 competitive selection process, and the governing board finds  
 197 evidence that:

198 (I) There is one appropriately licensed contractor who is  
 199 uniquely qualified to undertake the project because that  
 200 contractor is currently under contract to perform work that is  
 201 affiliated with the project; or

202 (II) The time to competitively award the project will  
 203 jeopardize the funding for the project, materially increase the

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204 cost of the project, or create an undue hardship on the public  
 205 health, safety, or welfare.

206 c. The project is to be awarded by any method other than a  
 207 competitive selection process, and the published notice clearly  
 208 specifies the ordinance or resolution by which the private  
 209 sector contractor will be selected and the criteria to be  
 210 considered.

211 d. The project is to be awarded by a method other than a  
 212 competitive selection process, and the architect or engineer of  
 213 record has provided a written recommendation that the project be  
 214 awarded to the private sector contractor without competitive  
 215 selection, and the consideration by, and the justification of,  
 216 the government body are documented, in writing, in the project  
 217 file and are presented to the governing board prior to the  
 218 approval required in this paragraph.

219 11. To projects subject to chapter 336.

220 Section 2. Subsection (4) of section 336.41, Florida  
 221 Statutes, is amended to read:

222 336.41 Counties; employing labor and providing road  
 223 equipment; accounting; when competitive bidding required.-

224 (4) All construction and reconstruction of roads and  
 225 bridges, including resurfacing, full scale mineral seal coating,  
 226 and major bridge and bridge system repairs, to be performed  
 227 utilizing the proceeds of the 80-percent portion of the surplus  
 228 of the constitutional gas tax shall be let to contract to the  
 229 lowest responsible bidder by competitive bid, except for:

230 (a) Construction and maintenance in emergency situations;7

231 ~~and~~

232 (b) In addition to emergency work, construction and

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233 reconstruction, including resurfacing, mineral seal coating, and  
234 bridge repairs, having a total cumulative annual value not to  
235 exceed 5 percent of its 80-percent portion of the constitutional  
236 gas tax or \$400,000, whichever is greater;~~r~~ and

237 (c) Construction of sidewalks, curbing, accessibility  
238 ramps, or appurtenances incidental to roads and bridges if each  
239 project is estimated in accordance with generally accepted cost-  
240 accounting principles to have total construction project costs  
241 of less than \$400,000 or as adjusted by the percentage change in  
242 the Construction Cost Index from January 1, 2008,

243

244 for which the county may utilize its own forces. Estimated total  
245 construction project costs must include all costs associated  
246 with performing and completing the work, including employee  
247 compensation and benefits, equipment cost and maintenance,  
248 insurance costs, and the cost of materials. However, if, after  
249 proper advertising, no bids are received by a county for a  
250 specific project, the county may use its own forces to construct  
251 the project, notwithstanding the limitation of this subsection.  
252 Nothing in this section shall prevent the county from performing  
253 routine maintenance as authorized by law.

254

Section 3. This act shall take effect July 1, 2019.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 902

INTRODUCER: Senator Perry

SUBJECT: Open and Expired Building Permits

DATE: March 9, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Favorable</b>
2.			IT	
3.			RC	

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**I. Summary:**

SB 902 provides statutory clarity with respect to open and expired building permits, institutes various disclosures, standards, and procedures to close such permits, and establishes notices for local enforcement agencies and property owners to utilize during the permit process.

Specifically, the bill creates a procedure by which a property owner, regardless of whether the owner is the same owner who originally applied for the permit or is a subsequent owner, may close an open or expired building permit. To do so, a property owner may do one of the following:

- Enter into a mutual agreement with the local enforcement agency to close an open or expired permit;
- Retain a licensed contractor to satisfy the conditions of an open or expired permit in order to close or reactivate the permit; or
- Hire a licensed engineer or architect to inspect the work, direct any repairs necessary to comply with the permit, and submit an affidavit to the local enforcement agency confirming compliance with the requirements of the open or expired permit.

Additionally, an owner of a home for sale may assume the role of an owner-builder under certain circumstances to resolve an open or expired permit for a substantially completed project.

The bill addresses other ancillary requirements pertaining to the methods described above and to building permits generally.

## II. Present Situation:

### Florida Building Code

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act.” The purpose and intent of the Florida Building Codes Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code.<sup>1</sup> The Florida Building Code must be applied, administered and enforced uniformly and consistently from jurisdiction to jurisdiction.<sup>2</sup> The Florida Building Commission develops and maintains the Florida Building Code.<sup>3</sup>

### Enforcement of the Florida Building Code: Permits and Inspections

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public’s health, safety, and welfare.<sup>4</sup> Authorized state and local government agencies enforce the Florida Building Code and issue building permits.<sup>5</sup>

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.<sup>6</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local enforcing agency upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.<sup>7</sup> A local building department or enforcement agency must post each type of building permit application on its website.<sup>8</sup> Each application must be inscribed with the date of application and the Florida Building Code in effect as of that date.<sup>9</sup> All permits must contain a disclosure stating that there may be other permitting requirements from other governmental entities beyond the local budding department or enforcement agency.<sup>10</sup>

### Abandoned or Expired Permits

Section 105 of the Florida Building Code provides certain activity-related characterizations of building permits although it does not explicitly define open permits. An application for a building permit is deemed *abandoned* 180 days after the filing of the permit application unless the application has been pursued in good faith or an extension has been granted by the local

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<sup>1</sup> Section 553.72(1), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 553.74, F.S. The Florida Building Commission is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.

<sup>4</sup> Section 553.72(2), F.S.

<sup>5</sup> *See* ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1) F.S.

<sup>6</sup> Section 202, 2017 Florida Building Code – Building, Sixth Edition (July 2017) *available at* <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited Mar. 6, 2019). Section 553.79(1)(b), F.S. requires a local enforcement agency of the Florida Building Code to post each type of building permit application on its website.

<sup>7</sup> *See* ss. 125.56(4)(a) and 553.79(1), F.S. Other entities may, by resolution or regulation, be directed to issue permits.

<sup>8</sup> Section 553.79(1)(b), F.S.

<sup>9</sup> Section 105.3., 2017 Florida Building Code.

<sup>10</sup> Section 553.79(10), F.S.



building department.<sup>11</sup> In addition, a permit becomes *invalid* if no work starts within six months after issuance of the permit or if work on the project ceases for a period of six months after work has commenced on the project.<sup>12</sup> A new permit is required if a permit is revoked after work has commenced, becomes *null and void*, or *expires* because of a lack of progress on the project.<sup>13</sup> If a new permit is not obtained within 180 days from the date the permit becomes null and void, the local enforcement agency may require the removal of all work that has been performed on the project.<sup>14</sup> Work shall be considered to be in *active progress* when the permit has received an approved inspection within 180 days.<sup>15</sup> The fee for renewal, reissuance, and extension of a permit is set forth by the administrative authority.<sup>16</sup>

### **Real Estate Disclosure Agreement Forms**

Florida's real estate industry has developed standardized forms for many real property transactions that are used by owners, real estate agents, and attorneys. It is common for a seller of real property to complete a property disclosure form prior to the sale of the property to disclose all known facts that materially affect the value of the property being sold and that are not readily observable or known by the buyer.<sup>17</sup> A recent addition to the seller's property disclosure form includes questions pertaining to active or open permits on the property which have not been closed by a final inspection.

Created jointly by the Florida Bar and Florida Realtors, the FAR/BAR Standard Contract<sup>18</sup> and the FAR/BAR 'AS IS' Contract<sup>19</sup> are accepted forms used for transactions of varied configurations and complexities. The forms outline responsibilities and obligations of parties in real estate transaction closings related to inspection periods, seller disclosures, and building permits. Under paragraph 12 of the Standard Contract, if the buyer gives notice of permit issues, the seller is obligated to resolve open or expired permits and obtain permits for any unpermitted improvements up to a certain dollar amount. Under paragraph 12 of the "As Is" Contract the seller must assist the buyer with closing permits but is not obligated to spend money for this purpose.

In response to the disclosure requirements pertaining to open or expired permits on the seller's disclosure form and the FAR/BAR forms, title companies, closing agents, and real estate attorneys research properties to determine if open or expired permits exist. Without resolution of

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<sup>11</sup> Section 105.3.2, 2017 Florida Building Code.

<sup>12</sup> Section 105.4.1, 2017 Florida Building Code.

<sup>13</sup> Section 105.4.1.1, 2017 Florida Building Code.

<sup>14</sup> Section 105.4.1.2, 2017 Florida Building Code.

<sup>15</sup> Section 105.4.1.3, 2017 Florida Building Code.

<sup>16</sup> Section 105.4.1.4, 2017 Florida Building Code.

<sup>17</sup> An example of a seller's property disclosure form is available at: [https://www.nefar.com/filebin/pdbdb/11/728\\_11.pdf](https://www.nefar.com/filebin/pdbdb/11/728_11.pdf) (last visited March 9, 2019).

<sup>18</sup> An example of the FAR/BAR Standard Contract is available at: [https://www.floridarealtors.org/LegalCenter/HotTopics/upload/FloridaRealtors-FloridaBar-5\\_032217\\_Watermarked-3.pdf](https://www.floridarealtors.org/LegalCenter/HotTopics/upload/FloridaRealtors-FloridaBar-5_032217_Watermarked-3.pdf) (last visited Mar. 9, 2019).

<sup>19</sup> An example of the FAR/BAR 'AS IS' Contract is available at: <https://www.needtosellmyhousefast.com/wp-content/uploads/2014/08/Florida-FAR-BAR-AS-IS-Residential-Contract-For-Sale-and-Purchase.pdf> (last visited Mar. 9, 2019).

such permits, closings may be delayed and clarity on buyer, seller, contractor, and enforcement agency understanding and accountability for permit resolution can be compromised.

### **Construction Work Performed by Owners of Property**

Section 489.103(7), F.S., exempts construction work performed by owners of property acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors, from licensure requirements. To qualify for the exemption an owner must appear and sign the building permit application and must satisfy all local permitting requirements.

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 553.7905, F.S., to provide statutory clarity with respect to open and expired building permits, institute various procedures to close such permits and establish notices for local enforcement agencies and owners to utilize during the permit process.

An *open* permit is defined using a combination of comment notice information, permit issuance dates, and determinations of whether and when permit inspections or final inspections occurred. An open permit that expires without a final inspection is considered an *expired* permit as provided in the Florida Building Code. A permit is deemed *closed* per a final inspection approval or, if no work has begun within six months of permit issuance.

Beyond the above clarifying permit status definitions, the bill also establishes a set of satisfying conditions required for all permit closings. Among the conditions is a mutual agreement between the current property owner and the local enforcement agency to engage specified licensed contractors to fulfill closing requirements. Owner-permit holder liability factors, subcontractor usage guidelines, and determination of the applicable building code effective date for inspection and approval requirements are all delineated.

In addition to engaging licensed contractors, specified, experienced engineers or architects may be hired to manage a permit closing. Such hired persons must confirm requirements compliance by submitting an affidavit, provided for by the bill, to the issuing local enforcement agency. Additional licensed engineers or architects may be hired to assure inspection expertise and are subject to similar affidavit submissions to the local enforcement agency.

Submitted affidavits are deemed to satisfy permit closing requirements unless the local enforcement agency conducts its own final inspection within seven business days of an affidavit receipt and discovers code or permit violations.

The local enforcement agency may approve an alternative to the set of satisfying conditions required for permit closings outlined above. This option allows the owner of a home for sale to act as owner-builder to resolve certain open permit issues in dwellings up to four units in size. The owner need not reside in the home for one year.

A local enforcement agency may not deny a building permit, issue a notice of violation or otherwise penalize or sanction a purchaser of property for an improperly closed permit within

five years of a recorded commencement notice or its last amendment. If no commencement notice was issued, the prevailing time period and qualifying event changes to within seven years after a building permit issuance. A local government agency's rights and remedies against the property remain in the case of either above scenarios.

Any permit type determined by a local enforcement agency may be closed six years after issuance of the permit subject to findings of documented code violations or safety hazards.

Beginning on October 1, 2019, if a building permit is issued but not closed within one to three years, the local enforcement agency must send an advisory notice to the property owner regarding proper permit closing procedures. Failure to receive a notice does not relieve the property owner or contractor from closing the permit.

Additional provisions of the bill include:

- A contractor may hold an unlimited number of active permits.
- A prescribed informational building permit compliance and inspection notice that local enforcement agencies must provide property owners explicating the importance of timely meeting permit conditions.
- Applicable government entities may only charge a single search fee to identify open or unexpired building permits commensurate with research and time costs incurred.

The bill does not prevent a local government entity from enforcing any consistent local land development codes or other local ordinances.

**Section 2** provides an effective date of October 1, 2019.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Property owners may incur additional costs to instigate searches for open and expired permits. To the extent that these searches identify such permits early on, their costs may be less than the attendant costs to resolve open or expired permits at a later date.

**C. Government Sector Impact:**

Local building departments and local enforcement agencies may incur costs related to the additional notice and permit disclosure requirements by the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

An analysis of the bill by the Department of Business and Professional Regulation (DBPR) cited possible issues with the bill's newly created s. 553.7095(4), F.S.<sup>20</sup> According to DBPR, provisions in this section may release substitute contractors from liability for existing work which could relieve a new contractor from disciplinary liability. Additionally, DBPR opined that rulemaking authority may be required.

**VIII. Statutes Affected:**

This bill creates section 553.7905 of the Florida Statutes:

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>20</sup> Florida Department of Business and Professional Regulation, *Agency Analysis of HB 447* (Feb. 12, 2019) (on file with the Senate Committee on Community Affairs).

THE FLORIDA SENATE

APPEARANCE RECORD

Duplicate

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19

902

Meeting Date

Bill Number (if applicable)

Topic Open and Expired Building Permits

Amendment Barcode (if applicable)

Name Danielle Scoggins

Job Title Public Policy Director

Address 200 S. Monroe Street

Phone 8504431942

Street Tallahassee

State FL

Zip 32301

Email danielles@floridarealtors.org

Speaking:  For  Against  Information  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Realtors

Appearing at request of Chair:  Yes  No  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12

Bill Number (if applicable) SB. 902

Topic Open Permits

Amendment Barcode (if applicable)

Name Mr. FRENCH BROWN

Job Title Lobbyist

Address 215 S. MARSH ST. SUITE 815

Phone 850-459-0992

City Tallahassee State FL Zip 32301

Email fbrown@seanmead.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Real Property, Probate and Trust Law Section of the Florida BAR

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Meeting Date 3-12-19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 5B 902  
Bill Number (if applicable)

Topic STOW PERMITS Amendment Barcode (if applicable)

Name GAM FENSTRIS

Job Title LEGISLATIVE COUNSEL

Address 1400 VILLAGE SQ # 3-243

Phone 850-222-2772

Street MC State FL Zip 32312

Email GFENSTRIS@MOLC.COM

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FOR REGISTERED CONTRACTORS ASSN

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 5-12-19

Bill Number (if applicable) SF 902

Topic Open Permits

Amendment Barcode (if applicable)

Name Pam Fenwick

Job Title Legislative Counselor

Address 1400 Village Sq # 3243

Phone 850-222-2772

City Jax State FL Zip 32312

Email PFenwick@fla.gov

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing TR ROOMING + SHEET MENS CONTRACTORS ASSN

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

APPEARANCE RECORD

Duplicate

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03-12-2019

902

Meeting Date

Bill Number (if applicable)

Topic Open and Expired Building Permits

Amendment Barcode (if applicable)

Name Warren Husband

Job Title

Address PO Box 10909

Phone (850) 205-9000

Street Tallahassee

FL

32302

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Associated General Contractors Council

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

By Senator Perry

8-00857-19

2019902\_\_

1 A bill to be entitled  
 2 An act relating to open and expired building permits;  
 3 creating s. 553.7905, F.S.; specifying conditions  
 4 under which a building permit is considered an open  
 5 permit, expired permit, or closed permit; authorizing  
 6 an open or expired permit to be closed on by or on  
 7 behalf of the current property owner if certain  
 8 requirements are met; prohibiting a local enforcement  
 9 agency from taking certain actions against a  
 10 subsequent arms-length purchaser of property because a  
 11 building permit was not properly closed within certain  
 12 time periods; providing that a local enforcement  
 13 agency maintains all rights and remedies identified on  
 14 the permit; providing that certain permits may be  
 15 closed under certain circumstances; providing  
 16 exceptions; authorizing the owner of a home for sale  
 17 to assume the role of an owner-builder in order to  
 18 resolve an open permit under certain circumstances;  
 19 providing that such owner is not required to reside in  
 20 the home for a specified period; authorizing a  
 21 contractor to hold an unlimited number of permits;  
 22 providing that certain provisions of the Florida  
 23 Building Code are not applicable to certain permits;  
 24 providing an exception; requiring a local enforcement  
 25 agency to provide written notice to a property owner  
 26 when issuing a building permit; authorizing a  
 27 governmental entity to charge a fee for searching for  
 28 and identifying certain open or unexpired building  
 29 permits; requiring a local enforcement agency to send

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30 a written notice to a property owner within a  
 31 specified period if a permit has not been properly  
 32 closed; providing requirements for the notice;  
 33 providing that failure to receive written notice does  
 34 not relieve certain persons from taking action to  
 35 close a permit; providing construction; providing an  
 36 effective date.

37  
 38 Be It Enacted by the Legislature of the State of Florida:

39  
 40 Section 1. Section 553.7905, Florida Statutes, is created  
 41 to read:

42 553.7905 Open and expired permits; procedures for closing;  
 43 notices to owners applying for permits.-

44 (1) A building permit shall be considered an open permit if  
 45 it is issued for any portion of construction of any commercial,  
 46 residential, or mixed-use project that has not received final  
 47 inspection approval within one of the following periods:

48 (a) One year after the expiration of the notice of  
 49 commencement or the last amendment thereto.

50 (b) In the absence of a notice of commencement:

51 1. One year after the last inspection conducted under the  
 52 permit; or

53 2. If an inspection has not been performed on the project,  
 54 2 years after the date of issuance of the permit.

55 (2) If an open permit expires without receiving final  
 56 inspection approval and without complying with other  
 57 requirements of the permit at issue, the open permit shall be  
 58 considered an expired permit as provided in s. 105.4 of the

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59 Florida Building Code.

60 (3) A closed permit is a building permit in which any of  
61 the following apply:

62 (a) A final inspection approval has been obtained upon  
63 satisfaction of permit requirements.

64 (b) No work is started under the original permit within 6  
65 months after issuance of the permit.

66 (c) The requirements of subsection (4) are satisfied.

67 (4) An open or expired permit may be closed by or on behalf  
68 of the current property owner, regardless of whether the  
69 property owner is the same owner who originally applied for the  
70 permit or is a subsequent owner, by complying with the  
71 requirements for closing permits pursuant to a mutual agreement  
72 between the current property owner and the local enforcement  
73 agency that issued the permit or, absent such an agreement, by  
74 complying with the following requirements:

75 (a) The property owner may retain the original contractor  
76 who obtained the permit or may hire a different contractor  
77 licensed in this state who possesses any license required for  
78 the performance of any work necessary to satisfy the conditions  
79 of the permit at issue, in order to close the open or expired  
80 permit; reactivate the permit if it is expired; or satisfy any  
81 requirement of the permit at issue not yet satisfied, including  
82 correcting of any code violation in accordance with the building  
83 code that was in effect when the application for the permit was  
84 filed, and obtaining any necessary inspection.

85 1. The state license of the contractor who performs these  
86 functions must be current and active.

87 2. After providing the local enforcement agency a written

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88 notice of change to a new licensed contractor and reactivation  
89 of the permit, if applicable, the contractor is not liable for  
90 any existing defect or existing work that fails to comply with  
91 any applicable code, rule, regulation, ordinance, permit  
92 requirement, or law other than the work actually performed by  
93 the contractor.

94 3. The property owner and the permitholder under the  
95 original open or expired permit remain liable, within the period  
96 of any applicable statute of limitations or repose and as  
97 provided by applicable law, for any defect in the work or for  
98 failure to comply with any applicable code, rule, regulation,  
99 ordinance, permit requirement, or law.

100 4. To the extent required by chapter 489, the owner or the  
101 contractor may hire licensed subcontractors in the scope of the  
102 permitted work who may perform the functions of the contractor  
103 as outlined in this subsection to the extent the work is covered  
104 by the subcontractor's license.

105 5. All work required to properly close an open or expired  
106 permit under this section must be performed in accordance with  
107 the building code in effect on the date the application for the  
108 open or expired permit was filed, unless, pursuant to the  
109 building code in effect when the work is performed, the  
110 contractor has sought and received approval from the local  
111 enforcement agency for an alternative material, design, or  
112 method of construction.

113 (b)1. As an alternative to the procedures required in  
114 paragraph (a), a property owner may hire an engineer or  
115 architect who possesses a current and active license in this  
116 state; is experienced in designing, supervising, or inspecting

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117 work of the nature covered by the open or expired permit at  
 118 issue; and has at least 3 years of experience in performing  
 119 field inspections regarding such work to inspect the  
 120 construction work subject to the open or expired building  
 121 permit, direct any repair necessary to comply with all the  
 122 requirements of the permit, and confirm compliance by submitting  
 123 an affidavit bearing the seal of the engineer or architect to  
 124 the issuing local enforcement agency. The affidavit must be  
 125 substantially in the following form:

126  
 127 I, ...(specify name)..., possess a current and active  
 128 ...(specify engineering or architectural)... license  
 129 in the State of Florida. I am experienced in  
 130 designing, supervising, or inspecting work of the  
 131 nature covered by the open or expired permit at the  
 132 real property located at ...(specify address).... I  
 133 have at least 3 years of experience in performing  
 134 field inspections as to such work. I have inspected  
 135 the construction work subject to the open or expired  
 136 building permit number ...(specify number)..., and I  
 137 confirm that the construction work complies with all  
 138 known requirements of the permit at issue.

139  
 140 Signed:

141  
 142 ...(affix licensing seal)...

143  
 144 2. If any of the permitted work includes construction  
 145 outside the engineer's or architect's area of expertise, the

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146 property owner, engineer, or architect may hire an engineer or  
 147 architect licensed in the scope of the permitted work who may  
 148 direct any necessary repairs to comply with all requirements of  
 149 the permit at issue. The engineer or architect hired by the  
 150 property owner, engineer, or architect must confirm compliance  
 151 by submitting to the local enforcement agency issuing the permit  
 152 a signed and sealed affidavit attesting to compliance with all  
 153 requirements of the permit at issue.

154 3. The local enforcement agency issuing the permit shall  
 155 accept the affidavit or affidavits referenced in this paragraph  
 156 as satisfaction of all requirements of the permit at issue and  
 157 shall thereafter close the building permit, unless the agency  
 158 conducts its own final inspection within 7 business days after  
 159 receipt of the affidavit or affidavits and discovers code or  
 160 permit violations within the scope of work covered by the  
 161 permit. Such violations must be corrected to the local  
 162 enforcement agency's satisfaction as a condition to closing the  
 163 permit. All work required to properly close an open or expired  
 164 permit under this paragraph must be performed in accordance with  
 165 the building code in effect on the date the application for the  
 166 open or expired permit was filed, unless, pursuant to the  
 167 building code in effect when the work is performed, the engineer  
 168 or architect has sought and received approval from the local  
 169 enforcement agency for an alternative material, design, or  
 170 method of construction.

171 (5) The requirements of subsection (4) apply regardless of  
 172 whether the building permit is open or has expired.

173 (6) (a) A local enforcement agency may not deny issuance of  
 174 a building permit or issue a notice of violation to, or fine,

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175 penalize, sanction, or assess fees against, a subsequent arms-  
 176 length purchaser of the subject property for value solely  
 177 because a building permit was not properly closed within one of  
 178 the following periods:

179 1. Five years after expiration of the date of recordation  
 180 of the notice of commencement or of the last amendment thereto.

181 2. If a notice of commencement was not recorded, within 7  
 182 years after the building permit was issued.

183 (b) A local enforcement agency shall maintain all rights  
 184 and remedies against the property owner and contractor  
 185 identified on the permit.

186 (7) An individual trade permit, or any other permit type  
 187 determined by a local enforcement agency, may be closed 6 years  
 188 after issuance of the permit if no apparent safety hazards exist  
 189 and no code violations have been previously documented. This  
 190 subsection does not apply to a building permit for a building  
 191 project still under construction with a legally granted permit  
 192 extension.

193 (8) As an alternative to the requirements in subsection  
 194 (4), with the approval of the local enforcement agency, the  
 195 owner of a home for sale may assume the role of an owner-builder  
 196 in order to resolve an open permit for a substantially completed  
 197 project when the project is abandoned or otherwise not completed  
 198 by the licensed contractor who obtained the permit. The owner is  
 199 not required to continue to reside in the home for 1 year. This  
 200 alternative applies only to real property consisting of single  
 201 or multiple family dwellings up to and including four units.

202 (9) A contractor may hold an unlimited number of active  
 203 permits.

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204 (10) Provisions in the Florida Building Code which  
 205 authorize permits to be administratively closed by a local  
 206 enforcement agency are not applicable to a permit subject to  
 207 regulation by an agency not specifically enforcing the Florida  
 208 Building Code, except where the local enforcement agency has  
 209 regulatory authority over other areas related to the permit,  
 210 such as zoning or other land development code provisions.  
 211 Regulations not subject to such provisions in the Florida  
 212 Building Code include, but are not limited to, local zoning and  
 213 land use rules, local stormwater management rules, local  
 214 platting and subdivision requirements, rules implemented by the  
 215 Department of Health and the Department of Business and  
 216 Professional Regulation, local utility standards, and provisions  
 217 of the National Flood Insurance Program Community Rating System.

218 (11) When issuing a building permit, a local enforcement  
 219 agency shall provide to the property owner a written notice,  
 220 which may be electronically provided if the permit package is  
 221 electronically provided, in substantially the following form:

222  
 223 IMPORTANT NOTICE REGARDING COMPLIANCE WITH THE  
 224 INSPECTION AND APPROVAL PROCESS FOR ALL BUILDING  
 225 PERMITS

226  
 227 You are receiving a building permit authorizing the  
 228 construction referenced in the application that was  
 229 submitted to this local enforcement agency by you or  
 230 on your behalf. The permit is issued with conditions,  
 231 including required building inspections and assurances  
 232 that the construction complies with the design

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233 submitted with the permit application and any other  
 234 conditions referenced in the permit. It is critical  
 235 that you ensure that all necessary building  
 236 inspections are passed before the expiration of any  
 237 notice of commencement or amendment thereto, as these  
 238 inspections are important to ensure that construction  
 239 has been performed in a safe and proper manner. If you  
 240 have any questions regarding these procedures, please  
 241 call the local enforcement agency. Your failure to  
 242 comply may also result in unsafe conditions arising  
 243 from your construction.

244

245 (12) The applicable governmental entity may charge only one  
 246 search fee for searching for and identifying open or unexpired  
 247 building permits for a tax parcel, regardless of how many units  
 248 or subunits may be assigned by a municipality or county to a  
 249 particular tax parcel identification number, in an amount  
 250 commensurate with research and time costs incurred by the  
 251 governmental entity.

252 (13) For all building permits issued after October 1, 2019,  
 253 a local enforcement agency shall send a written notice to the  
 254 property owner if a building permit has not been properly closed  
 255 within 1 to 3 years after issuance of any such permit. The  
 256 notice must advise the property owner of the need to properly  
 257 close the permit upon completion of the work covered by the  
 258 permit. Failure to receive written notice does not relieve the  
 259 contractor or the property owner from taking the necessary  
 260 actions to legally close the permit.

261 (14) This act does not prevent a local governmental entity

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262 from enforcing any provision of a local land development code or  
 263 other local ordinance not inconsistent with this section.

264 Section 2. This act shall take effect October 1, 2019.

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The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Community Affairs  
**ITEM:** SB 902  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 12, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Pizzo						
X		Simmons						
X		Farmer, VICE CHAIR						
X		Flores, CHAIR						
5	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SJR 326

INTRODUCER: Senator Brandes

SUBJECT: Homestead Property Tax Assessments/Increased Portability Period

DATE: March 7, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	<b>Favorable</b>
2.			FT	
3.			AP	

---

**I. Summary:**

SJR 326 proposes an amendment to the Florida Constitution to extend from 2 to 3 years the “portability” period during which a Florida citizen has the ability to transfer up to \$500,000 of accumulated Save Our Homes Cap Benefits from an existing or prior homestead property to a new homestead property.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and

---

<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).



exemptions to determine the property's "taxable value."<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Save Our Homes Assessment Limitation and Portability**

In 1992, Florida voters approved an amendment to the Florida Constitution known as the Save Our Homes amendment.<sup>11</sup> Article VII, section 4(d) of the Florida Constitution limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).<sup>12</sup> The accumulated difference between the assessed value and the just value is the Save Our Homes Benefit. The assessed value may increase even if the value of the home decreases, but only by this limited amount. In addition, the assessed value of a homestead property will never be more than the just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.<sup>13</sup> This amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued benefit to the new homestead. To transfer the Save Our Homes benefit, you must establish a homestead exemption for the new home within 2 years of January 1 of the year you abandoned the old homestead (not 2 years after the sale).<sup>14</sup>

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<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

<sup>12</sup> FLA. CONST. art. VII, s. 4(d).

<sup>13</sup> The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155(8), F.S.

<sup>14</sup> See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure at <http://floridarevenue.com/property/Documents/pt112.pdf>.

### III. Effect of Proposed Changes:

The joint resolution proposes an amendment to the Florida Constitution to extend from 2 to 3 years the “portability” period during which a Florida citizen has the ability to transfer up to \$500,000 of accumulated Save our Homes Cap Benefits from an existing or prior homestead property to a new homestead property.

If adopted by the Legislature, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election in November 2020.

If approved by at least 60 percent of the electors, the proposed amendment will take effect on January 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

Article XI, Section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. Article XI, Section 5(a) of the Florida Constitution requires the amendment be placed before the electorate at the next general election<sup>15</sup> held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose. Section 101.161(1), F.S., requires constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”<sup>16</sup>

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each

<sup>15</sup> Section 97.012(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

<sup>16</sup> *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held.

Article XI, Section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that the joint resolution has a zero/negative indeterminate impact because of the need for voter approval. If the constitutional amendment does not pass, the impact is zero. However, if approved, the Revenue Estimating Conference determined that the joint resolution will reduce local property taxes by \$2.1 million, beginning in Fiscal Year 2021–2022, with a recurring reduction of \$6.5 million. The fiscal impact includes a \$0.8 million reduction in school taxes, beginning in Fiscal Year 2021–2022, with a \$2.4 million recurring reduction.

**B. Private Sector Impact:**

If the proposed amendment is approved by a 60 percent vote of the electors, homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

**C. Government Sector Impact:**

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments. According to the Division, the cost to advertise constitutional amendments for the 2018 primary and general election cycle was \$92.93 per word.

If the proposed amendment is approved by a 60 percent vote of the electors, the Department of Revenue would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH; and Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C. However, the department will implement those changes with existing fiscal resources.

If the proposed amendment is approved by a 60 percent vote of the electors, local governments may receive less ad valorem tax revenue.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends Article VII, section 4 of the Florida Constitution. This bill creates a new section in Article XII of the Florida Constitution.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.12.13

Meeting Date

Bill Number (if applicable)  
3246

Topic Limitations on handwritten assessments

Amendment Barcode (if applicable)

Name Albert Baldo

Job Title \_\_\_\_\_

Address 201 W Park Ave #100

Phone 888 257 3440

Street TAM. City FL State FL Zip 32301

Email Albert@DriftfieldHorseshoe.com

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 572 326/SB 324

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name Loren Levy

Job Title General Counsel, Property Appraisers' Assn of Fla

Address 1828 Riggins Rd

Phone 850-219-0220

Street Tallahassee City FL State 32308 Zip

Email pa@comcast.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Property Appraisers' Assn of Fla

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

By Senator Brandes

24-00633-19

2019326\_\_

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to increase the period of time during which the accrued benefit from specified limitations on homestead property tax assessments may be transferred from a prior homestead to a new homestead and to provide an effective date.

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

That the following amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general

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law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

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59 (5) Changes, additions, reductions, or improvements to  
60 homestead property shall be assessed as provided for by general  
61 law; provided, however, after the adjustment for any change,  
62 addition, reduction, or improvement, the property shall be  
63 assessed as provided in this subsection.

64 (6) In the event of a termination of homestead status, the  
65 property shall be assessed as provided by general law.

66 (7) The provisions of this amendment are severable. If any  
67 of the provisions of this amendment shall be held  
68 unconstitutional by any court of competent jurisdiction, the  
69 decision of such court shall not affect or impair any remaining  
70 provisions of this amendment.

71 (8)a. A person who establishes a new homestead as of  
72 January 1, ~~2009, or January 1 of any subsequent year~~ and who has  
73 received a homestead exemption pursuant to Section 6 of this  
74 Article as of January 1 of any either of the three two years  
75 immediately preceding the establishment of the new homestead is  
76 entitled to have the new homestead assessed at less than just  
77 value. ~~If this revision is approved in January of 2008, a person  
78 who establishes a new homestead as of January 1, 2008, is  
79 entitled to have the new homestead assessed at less than just  
80 value only if that person received a homestead exemption on  
81 January 1, 2007.~~ The assessed value of the newly established  
82 homestead shall be determined as follows:

83 1. If the just value of the new homestead is greater than  
84 or equal to the just value of the prior homestead as of January  
85 1 of the year in which the prior homestead was abandoned, the  
86 assessed value of the new homestead shall be the just value of  
87 the new homestead minus an amount equal to the lesser of

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88 \$500,000 or the difference between the just value and the  
89 assessed value of the prior homestead as of January 1 of the  
90 year in which the prior homestead was abandoned. Thereafter, the  
91 homestead shall be assessed as provided in this subsection.

92 2. If the just value of the new homestead is less than the  
93 just value of the prior homestead as of January 1 of the year in  
94 which the prior homestead was abandoned, the assessed value of  
95 the new homestead shall be equal to the just value of the new  
96 homestead divided by the just value of the prior homestead and  
97 multiplied by the assessed value of the prior homestead.  
98 However, if the difference between the just value of the new  
99 homestead and the assessed value of the new homestead calculated  
100 pursuant to this sub-subparagraph is greater than \$500,000, the  
101 assessed value of the new homestead shall be increased so that  
102 the difference between the just value and the assessed value  
103 equals \$500,000. Thereafter, the homestead shall be assessed as  
104 provided in this subsection.

105 b. By general law and subject to conditions specified  
106 therein, the legislature shall provide for application of this  
107 paragraph to property owned by more than one person.

108 (e) The legislature may, by general law, for assessment  
109 purposes and subject to the provisions of this subsection, allow  
110 counties and municipalities to authorize by ordinance that  
111 historic property may be assessed solely on the basis of  
112 character or use. Such character or use assessment shall apply  
113 only to the jurisdiction adopting the ordinance. The  
114 requirements for eligible properties must be specified by  
115 general law.

116 (f) A county may, in the manner prescribed by general law,

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117 provide for a reduction in the assessed value of homestead  
 118 property to the extent of any increase in the assessed value of  
 119 that property which results from the construction or  
 120 reconstruction of the property for the purpose of providing  
 121 living quarters for one or more natural or adoptive grandparents  
 122 or parents of the owner of the property or of the owner's spouse  
 123 if at least one of the grandparents or parents for whom the  
 124 living quarters are provided is 62 years of age or older. Such a  
 125 reduction may not exceed the lesser of the following:

126 (1) The increase in assessed value resulting from  
 127 construction or reconstruction of the property.

128 (2) Twenty percent of the total assessed value of the  
 129 property as improved.

130 (g) For all levies other than school district levies,  
 131 assessments of residential real property, as defined by general  
 132 law, which contains nine units or fewer and which is not subject  
 133 to the assessment limitations set forth in subsections (a)  
 134 through (d) shall change only as provided in this subsection.

135 (1) Assessments subject to this subsection shall be changed  
 136 annually on the date of assessment provided by law; but those  
 137 changes in assessments shall not exceed ten percent (10%) of the  
 138 assessment for the prior year.

139 (2) No assessment shall exceed just value.

140 (3) After a change of ownership or control, as defined by  
 141 general law, including any change of ownership of a legal entity  
 142 that owns the property, such property shall be assessed at just  
 143 value as of the next assessment date. Thereafter, such property  
 144 shall be assessed as provided in this subsection.

145 (4) Changes, additions, reductions, or improvements to such

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146 property shall be assessed as provided for by general law;  
 147 however, after the adjustment for any change, addition,  
 148 reduction, or improvement, the property shall be assessed as  
 149 provided in this subsection.

150 (h) For all levies other than school district levies,  
 151 assessments of real property that is not subject to the  
 152 assessment limitations set forth in subsections (a) through (d)  
 153 and (g) shall change only as provided in this subsection.

154 (1) Assessments subject to this subsection shall be changed  
 155 annually on the date of assessment provided by law; but those  
 156 changes in assessments shall not exceed ten percent (10%) of the  
 157 assessment for the prior year.

158 (2) No assessment shall exceed just value.

159 (3) The legislature must provide that such property shall  
 160 be assessed at just value as of the next assessment date after a  
 161 qualifying improvement, as defined by general law, is made to  
 162 such property. Thereafter, such property shall be assessed as  
 163 provided in this subsection.

164 (4) The legislature may provide that such property shall be  
 165 assessed at just value as of the next assessment date after a  
 166 change of ownership or control, as defined by general law,  
 167 including any change of ownership of the legal entity that owns  
 168 the property. Thereafter, such property shall be assessed as  
 169 provided in this subsection.

170 (5) Changes, additions, reductions, or improvements to such  
 171 property shall be assessed as provided for by general law;  
 172 however, after the adjustment for any change, addition,  
 173 reduction, or improvement, the property shall be assessed as  
 174 provided in this subsection.

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175 (i) The legislature, by general law and subject to  
 176 conditions specified therein, may prohibit the consideration of  
 177 the following in the determination of the assessed value of real  
 178 property:

179 (1) Any change or improvement to real property used for  
 180 residential purposes made to improve the property's resistance  
 181 to wind damage.

182 (2) The installation of a solar or renewable energy source  
 183 device.

184 (j) (1) The assessment of the following working waterfront  
 185 properties shall be based upon the current use of the property:  
 186 a. Land used predominantly for commercial fishing purposes.  
 187 b. Land that is accessible to the public and used for  
 188 vessel launches into waters that are navigable.  
 189 c. Marinas and drystacks that are open to the public.  
 190 d. Water-dependent marine manufacturing facilities,  
 191 commercial fishing facilities, and marine vessel construction  
 192 and repair facilities and their support activities.

193 (2) The assessment benefit provided by this subsection is  
 194 subject to conditions and limitations and reasonable definitions  
 195 as specified by the legislature by general law.

## ARTICLE XII

## SCHEDULE

198 Transfer of the accrued benefit from specified limitations  
 199 on homestead property tax assessments; increased portability  
 200 period.—This section and the amendment to Section 4 of Article  
 201 VII, which extends to three years the time period during which  
 202 the accrued benefit from specified limitations on homestead  
 203 property tax assessments may be transferred from a prior

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204 homestead to a new homestead, shall take effect January 1, 2021.

205 BE IT FURTHER RESOLVED that the following statement be  
 206 placed on the ballot:

## CONSTITUTIONAL AMENDMENT

## ARTICLE VII, SECTION 4

## ARTICLE XII

210 LIMITATIONS ON HOMESTEAD PROPERTY TAX ASSESSMENTS;  
 211 INCREASED PORTABILITY PERIOD TO TRANSFER ACCRUED BENEFIT.—  
 212 Proposing an amendment to the State Constitution, effective  
 213 January 1, 2021, to increase, from 2 years to 3 years, the  
 214 period of time during which accrued Save-Our-Homes benefits may  
 215 be transferred from a prior homestead to a new homestead.

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The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Community Affairs  
**ITEM:** SJR 326  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, March 12, 2019  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** 301 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Broxson						
X		Pizzo						
X		Simmons						
X		Farmer, VICE CHAIR						
X		Flores, CHAIR						
5	0	<b>TOTALS</b>						
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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**BILL:** CS/SB 324  
**INTRODUCER:** Senator Brandes  
**SUBJECT:** Limitations on Homestead Assessments  
**DATE:** March 12, 2019      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Fav/CS
2.			FT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 324 is the implementing bill for SJR 326 which proposes an amendment to the Florida Constitution to extend from 2 to 3 years the “portability” period during which a Florida citizen has the ability to transfer up to \$500,000 of accumulated Save our Homes Cap Benefits from an existing or prior homestead property to a new homestead property.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and

---

<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

exemptions to determine the property's "taxable value."<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Save Our Homes Assessment Limitation and Portability**

In 1992, Florida voters approved an amendment to the Florida Constitution known as the Save Our Homes amendment.<sup>11</sup> Article VII, section 4(d) of the Florida Constitution limits the amount that the assessed value of a homestead property may increase annually to the lesser of 3 percent or the percentage increase in the Consumer Price Index (CPI).<sup>12</sup> The accumulated difference between the assessed value and the just value is the Save Our Homes Benefit. The assessed value may increase even if the value of the home decreases, but only by this limited amount. In addition, the assessed value of a homestead property will never be more than the just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d) of the Florida Constitution to provide for the portability of the accrued benefit under the Save Our Homes assessment limitation.<sup>13</sup> This amendment allows homestead property owners who relocate to a new homestead to transfer, or "port," up to \$500,000 of the accrued benefit to the new homestead. To transfer the Save Our Homes benefit, you must establish a homestead exemption for the new home within 2 years of January 1 of the year you abandoned the old homestead (not 2 years after the sale).<sup>14</sup>

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<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155, F.S.

<sup>12</sup> FLA. CONST. art. VII, s. 4(d).

<sup>13</sup> The Florida Legislature implemented the Saves Our Homes amendment in s. 193.155(8), F.S.

<sup>14</sup> See Department of Revenue, Save Our Homes Assessment Limitation and Portability Transfer Brochure at <http://floridarevenue.com/dor/property/Documents/pt112.pdf>.

### III. Effect of Proposed Changes:

**Section 1** amends s. 193.155, F.S., to extend from 2 to 3 years the “portability” period during which a Florida citizen has the ability to transfer up to \$500,000 of accumulated Save our Homes Cap Benefits from an existing or prior homestead property to a new homestead property.

**Section 2** provides that this act applies beginning with the 2021 tax roll.

**Section 3** provides that the act shall take effect on the effective date of the amendment to the Florida Constitution proposed by SJR 326 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the Florida Constitution is approved at the general election<sup>15</sup> held in November 2020.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill has a zero/negative indeterminate fiscal impact due to the requirement for a state referendum for the related joint resolution (SJR 326). If the constitutional amendment does not pass, the impact is zero. However, if approved, the Revenue Estimating Conference determined that the bill will reduce local property taxes by \$2.1 million, beginning in Fiscal Year 2021-2022, with a recurring reduction of \$6.5 million. The fiscal impact includes a \$0.8 million

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<sup>15</sup> Section 97.012(16), F.S., defines “general election” as an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.

reduction in school taxes, beginning in Fiscal Year 2021–2022, with a \$2.4 million recurring reduction.

**B. Private Sector Impact:**

If the proposed amendment is approved by a 60 percent vote of the electors,<sup>16</sup> homeowners will have an additional year to transfer their existing homestead Save Our Homes benefit to a new homestead property.

**C. Government Sector Impact:**

If the proposed amendment is approved by a 60 percent vote of the electors, local governments may receive less ad valorem tax revenue.

If the proposed amendment is approved by a 60 percent vote of the electors, the Department of Revenue would need to amend Forms DR-490PORT, DR-501, and DR-501RVSH; and Rules 12D-8.0065(2)(a) and 12D-16.002, F.A.C. However, the department will implement those changes with existing fiscal resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 193.155 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 12, 2019:**

The committee substitute made technical amendment to reference SJR 326.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

<sup>16</sup> Article XI, Section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective after the next general election or at an earlier special election specifically authorized by law for that purpose.



244756

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2019	.	
	.	
	.	
	.	

---

The Committee on Community Affairs (Brandes) recommended the following:

**Senate Amendment**

Delete line 306  
and insert:  
of the amendment to the State Constitution proposed by SJR  
326



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19

Meeting Date

324

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Limitation on home state assessments  
Name Albert Balido

Job Title \_\_\_\_\_

Address 201 W Park Ave Bldg

Phone 850 573 4475

City Tallah. State FL Zip 32301

Email albalido@flda.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Flores Association of Property Appraisers

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

By Senator Brandes

24-00632A-19

2019324\_\_

1 A bill to be entitled  
 2 An act relating to limitations on homestead  
 3 assessments; amending s. 193.155, F.S.; revising the  
 4 timeframe during which the accrued benefit from  
 5 specified limitations on homestead property tax  
 6 assessments may be transferred from a prior homestead  
 7 to a new homestead; deleting obsolete provisions;  
 8 revising the timeframe during which an owner of  
 9 homestead property significantly damaged or destroyed  
 10 by a named tropical storm or hurricane must establish  
 11 a new homestead to make a certain election; providing  
 12 applicability; providing a contingent effective date.  
 13  
 14 Be It Enacted by the Legislature of the State of Florida:  
 15  
 16 Section 1. Subsection (8) of section 193.155, Florida  
 17 Statutes, is amended to read:  
 18 193.155 Homestead assessments.—Homestead property shall be  
 19 assessed at just value as of January 1, 1994. Property receiving  
 20 the homestead exemption after January 1, 1994, shall be assessed  
 21 at just value as of January 1 of the year in which the property  
 22 receives the exemption unless the provisions of subsection (8)  
 23 apply.  
 24 (8) Property assessed under this section shall be assessed  
 25 at less than just value when the person who establishes a new  
 26 homestead has received a homestead exemption as of January 1 of  
 27 any either of the 3 2 immediately preceding years. ~~A person who~~  
 28 ~~establishes a new homestead as of January 1, 2008, is entitled~~  
 29 ~~to have the new homestead assessed at less than just value only~~

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30 ~~if that person received a homestead exemption on January 1,~~  
 31 ~~2007, and only if this subsection applies retroactive to January~~  
 32 ~~1, 2008.~~ For purposes of this subsection, a husband and wife who  
 33 owned and both permanently resided on a previous homestead shall  
 34 each be considered to have received the homestead exemption even  
 35 though only the husband or the wife applied for the homestead  
 36 exemption on the previous homestead. The assessed value of the  
 37 newly established homestead shall be determined as provided in  
 38 this subsection.  
 39 (a) If the just value of the new homestead as of January 1  
 40 is greater than or equal to the just value of the immediate  
 41 prior homestead as of January 1 of the year in which the  
 42 immediate prior homestead was abandoned, the assessed value of  
 43 the new homestead shall be the just value of the new homestead  
 44 minus an amount equal to the lesser of \$500,000 or the  
 45 difference between the just value and the assessed value of the  
 46 immediate prior homestead as of January 1 of the year in which  
 47 the prior homestead was abandoned. Thereafter, the homestead  
 48 shall be assessed as provided in this section.  
 49 (b) If the just value of the new homestead as of January 1  
 50 is less than the just value of the immediate prior homestead as  
 51 of January 1 of the year in which the immediate prior homestead  
 52 was abandoned, the assessed value of the new homestead shall be  
 53 equal to the just value of the new homestead divided by the just  
 54 value of the immediate prior homestead and multiplied by the  
 55 assessed value of the immediate prior homestead. However, if the  
 56 difference between the just value of the new homestead and the  
 57 assessed value of the new homestead calculated pursuant to this  
 58 paragraph is greater than \$500,000, the assessed value of the

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59 new homestead shall be increased so that the difference between  
60 the just value and the assessed value equals \$500,000.  
61 Thereafter, the homestead shall be assessed as provided in this  
62 section.

63 (c) If two or more persons who have each received a  
64 homestead exemption as of January 1 of any ~~either~~ of the 3 ~~2~~  
65 immediately preceding years and who would otherwise be eligible  
66 to have a new homestead property assessed under this subsection  
67 establish a single new homestead, the reduction from just value  
68 is limited to the higher of the difference between the just  
69 value and the assessed value of either of the prior eligible  
70 homesteads as of January 1 of the year in which either of the  
71 eligible prior homesteads was abandoned, but may not exceed  
72 \$500,000.

73 (d) If two or more persons abandon jointly owned and  
74 jointly titled property that received a homestead exemption as  
75 of January 1 of any ~~either~~ of the 3 ~~2~~ immediately preceding  
76 years, and one or more such persons who were entitled to and  
77 received a homestead exemption on the abandoned property  
78 establish a new homestead that would otherwise be eligible for  
79 assessment under this subsection, each such person establishing  
80 a new homestead is entitled to a reduction from just value for  
81 the new homestead equal to the just value of the prior homestead  
82 minus the assessed value of the prior homestead divided by the  
83 number of owners of the prior homestead who received a homestead  
84 exemption, unless the title of the property contains specific  
85 ownership shares, in which case the share of reduction from just  
86 value shall be proportionate to the ownership share. In the case  
87 of a husband and wife abandoning jointly titled property, the

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88 husband and wife may designate the ownership share to be  
89 attributed to each spouse by following the procedure in  
90 paragraph (f). To qualify to make such a designation, the  
91 husband and wife must be married on the date that the jointly  
92 owned property is abandoned. In calculating the assessment  
93 reduction to be transferred from a prior homestead that has an  
94 assessment reduction for living quarters of parents or  
95 grandparents pursuant to s. 193.703, the value calculated  
96 pursuant to s. 193.703(6) must first be added back to the  
97 assessed value of the prior homestead. The total reduction from  
98 just value for all new homesteads established under this  
99 paragraph may not exceed \$500,000. There shall be no reduction  
100 from just value of any new homestead unless the prior homestead  
101 is reassessed at just value or is reassessed under this  
102 subsection as of January 1 after the abandonment occurs.

103 (e) If one or more persons who previously owned a single  
104 homestead and each received the homestead exemption qualify for  
105 a new homestead where all persons who qualify for homestead  
106 exemption in the new homestead also qualified for homestead  
107 exemption in the previous homestead without an additional person  
108 qualifying for homestead exemption in the new homestead, the  
109 reduction in just value shall be calculated pursuant to  
110 paragraph (a) or paragraph (b), without application of paragraph  
111 (c) or paragraph (d).

112 (f) A husband and wife abandoning jointly titled property  
113 who wish to designate the ownership share to be attributed to  
114 each person for purposes of paragraph (d) must file a form  
115 provided by the department with the property appraiser in the  
116 county where such property is located. The form must include a

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117 sworn statement by each person designating the ownership share  
 118 to be attributed to each person for purposes of paragraph (d)  
 119 and must be filed prior to either person filing the form  
 120 required under paragraph (h) to have a parcel of property  
 121 assessed under this subsection. Such a designation, once filed  
 122 with the property appraiser, is irrevocable.

123 (g) For purposes of receiving an assessment reduction  
 124 pursuant to this subsection, a person entitled to assessment  
 125 under this section may abandon his or her homestead even though  
 126 it remains his or her primary residence by notifying the  
 127 property appraiser of the county where the homestead is located.  
 128 This notification must be in writing and delivered at the same  
 129 time as or before timely filing a new application for homestead  
 130 exemption on the property.

131 (h) In order to have his or her homestead property assessed  
 132 under this subsection, a person must file a form provided by the  
 133 department as an attachment to the application for homestead  
 134 exemption, including a copy of the form required to be filed  
 135 under paragraph (f), if applicable. The form, which must include  
 136 a sworn statement attesting to the applicant's entitlement to  
 137 assessment under this subsection, shall be considered sufficient  
 138 documentation for applying for assessment under this subsection.  
 139 The department shall require by rule that the required form be  
 140 submitted with the application for homestead exemption under the  
 141 timeframes and processes set forth in chapter 196 to the extent  
 142 practicable.

143 (i)1. If the previous homestead was located in a different  
 144 county than the new homestead, the property appraiser in the  
 145 county where the new homestead is located must transmit a copy

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146 of the completed form together with a completed application for  
 147 homestead exemption to the property appraiser in the county  
 148 where the previous homestead was located. If the previous  
 149 homesteads of applicants for transfer were in more than one  
 150 county, each applicant from a different county must submit a  
 151 separate form.

152 2. The property appraiser in the county where the previous  
 153 homestead was located must return information to the property  
 154 appraiser in the county where the new homestead is located by  
 155 April 1 or within 2 weeks after receipt of the completed  
 156 application from that property appraiser, whichever is later. As  
 157 part of the information returned, the property appraiser in the  
 158 county where the previous homestead was located must provide  
 159 sufficient information concerning the previous homestead to  
 160 allow the property appraiser in the county where the new  
 161 homestead is located to calculate the amount of the assessment  
 162 limitation difference which may be transferred and must certify  
 163 whether the previous homestead was abandoned and has been or  
 164 will be reassessed at just value or reassessed according to the  
 165 provisions of this subsection as of the January 1 following its  
 166 abandonment.

167 3. Based on the information provided on the form from the  
 168 property appraiser in the county where the previous homestead  
 169 was located, the property appraiser in the county where the new  
 170 homestead is located shall calculate the amount of the  
 171 assessment limitation difference which may be transferred and  
 172 apply the difference to the January 1 assessment of the new  
 173 homestead.

174 4. All property appraisers having information-sharing

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175 agreements with the department are authorized to share  
 176 confidential tax information with each other pursuant to s.  
 177 195.084, including social security numbers and linked  
 178 information on the forms provided pursuant to this section.

179 5. The transfer of any limitation is not final until any  
 180 values on the assessment roll on which the transfer is based are  
 181 final. If such values are final after tax notice bills have been  
 182 sent, the property appraiser shall make appropriate corrections  
 183 and a corrected tax notice bill shall be sent. Any values that  
 184 are under administrative or judicial review shall be noticed to  
 185 the tribunal or court for accelerated hearing and resolution so  
 186 that the intent of this subsection may be carried out.

187 6. If the property appraiser in the county where the  
 188 previous homestead was located has not provided information  
 189 sufficient to identify the previous homestead and the assessment  
 190 limitation difference is transferable, the taxpayer may file an  
 191 action in circuit court in that county seeking to establish that  
 192 the property appraiser must provide such information.

193 7. If the information from the property appraiser in the  
 194 county where the previous homestead was located is provided  
 195 after the procedures in this section are exercised, the property  
 196 appraiser in the county where the new homestead is located shall  
 197 make appropriate corrections and a corrected tax notice and tax  
 198 bill shall be sent.

199 8. This subsection does not authorize the consideration or  
 200 adjustment of the just, assessed, or taxable value of the  
 201 previous homestead property.

202 9. The property appraiser in the county where the new  
 203 homestead is located shall promptly notify a taxpayer if the

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204 information received, or available, is insufficient to identify  
 205 the previous homestead and the amount of the assessment  
 206 limitation difference which is transferable. Such notification  
 207 shall be sent on or before July 1 as specified in s. 196.151.

208 10. The taxpayer may correspond with the property appraiser  
 209 in the county where the previous homestead was located to  
 210 further seek to identify the homestead and the amount of the  
 211 assessment limitation difference which is transferable.

212 11. If the property appraiser in the county where the  
 213 previous homestead was located supplies sufficient information  
 214 to the property appraiser in the county where the new homestead  
 215 is located, such information shall be considered timely if  
 216 provided in time for inclusion on the notice of proposed  
 217 property taxes sent pursuant to ss. 194.011 and 200.065(1).

218 12. If the property appraiser has not received information  
 219 sufficient to identify the previous homestead and the amount of  
 220 the assessment limitation difference which is transferable  
 221 before mailing the notice of proposed property taxes, the  
 222 taxpayer may file a petition with the value adjustment board in  
 223 the county where the new homestead is located.

224 (j) Any person who is qualified to have his or her property  
 225 assessed under this subsection and who fails to file an  
 226 application by March 1 may file an application for assessment  
 227 under this subsection and may, pursuant to s. 194.011(3), file a  
 228 petition with the value adjustment board requesting that an  
 229 assessment under this subsection be granted. Such petition may  
 230 be filed at any time during the taxable year on or before the  
 231 25th day following the mailing of the notice by the property  
 232 appraiser as provided in s. 194.011(1). Notwithstanding s.

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233 194.013, such person must pay a nonrefundable fee of \$15 upon  
 234 filing the petition. Upon reviewing the petition, if the person  
 235 is qualified to receive the assessment under this subsection and  
 236 demonstrates particular extenuating circumstances judged by the  
 237 property appraiser or the value adjustment board to warrant  
 238 granting the assessment, the property appraiser or the value  
 239 adjustment board may grant an assessment under this subsection.  
 240 ~~For the 2008 assessments, all petitioners for assessment under~~  
 241 ~~this subsection shall be considered to have demonstrated~~  
 242 ~~particular extenuating circumstances.~~

243 (k) Any person who is qualified to have his or her property  
 244 assessed under this subsection and who fails to timely file an  
 245 application for his or her new homestead in the first year  
 246 following eligibility may file in a subsequent year. The  
 247 assessment reduction shall be applied to assessed value in the  
 248 year the transfer is first approved, and refunds of tax may not  
 249 be made for previous years.

250 (l) The property appraisers of the state shall, as soon as  
 251 practicable after March 1 of each year and on or before July 1  
 252 of that year, carefully consider all applications for assessment  
 253 under this subsection which have been filed in their respective  
 254 offices on or before March 1 of that year. If, upon  
 255 investigation, the property appraiser finds that the applicant  
 256 is entitled to assessment under this subsection, the property  
 257 appraiser shall make such entries upon the tax rolls of the  
 258 county as are necessary to allow the assessment. If, after due  
 259 consideration, the property appraiser finds that the applicant  
 260 is not entitled to the assessment under this subsection, the  
 261 property appraiser shall immediately prepare a notice of such

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262 disapproval, giving his or her reasons therefor, and a copy of  
 263 the notice must be served upon the applicant by the property  
 264 appraiser by personal delivery or by registered mail to the post  
 265 office address given by the applicant. The applicant may appeal  
 266 the decision of the property appraiser refusing to allow the  
 267 assessment under this subsection to the value adjustment board,  
 268 and the board shall review the application and evidence  
 269 presented to the property appraiser upon which the applicant  
 270 based the claim and hear the applicant in person or by agent on  
 271 behalf of his or her right to such assessment. Such appeal shall  
 272 be heard by an attorney special magistrate if the value  
 273 adjustment board uses special magistrates. The value adjustment  
 274 board shall reverse the decision of the property appraiser in  
 275 the cause and grant assessment under this subsection to the  
 276 applicant if, in its judgment, the applicant is entitled to the  
 277 assessment or shall affirm the decision of the property  
 278 appraiser. The action of the board is final in the cause unless  
 279 the applicant, within 60 days following the date of refusal of  
 280 the application by the board, files in the circuit court of the  
 281 county in which the homestead is located a proceeding against  
 282 the property appraiser for a declaratory judgment as is provided  
 283 under chapter 86 or other appropriate proceeding. The failure of  
 284 the taxpayer to appear before the property appraiser or value  
 285 adjustment board or to file any paper other than the application  
 286 as provided in this subsection does not constitute a bar to or  
 287 defense in the proceedings.

288 (m) For purposes of receiving an assessment reduction  
 289 pursuant to this subsection, an owner of a homestead property  
 290 that was significantly damaged or destroyed as a result of a

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291 named tropical storm or hurricane may elect, in the calendar  
292 year following the named tropical storm or hurricane, to have  
293 the significantly damaged or destroyed homestead deemed to have  
294 been abandoned as of the date of the named tropical storm or  
295 hurricane even though the owner received a homestead exemption  
296 on the property as of January 1 of the year immediately  
297 following the named tropical storm or hurricane. The election  
298 provided for in this paragraph is available only if the owner  
299 establishes a new homestead as of January 1 of the third ~~second~~  
300 year immediately following the storm or hurricane. This  
301 paragraph shall apply to homestead property damaged or destroyed  
302 on or after January 1, 2017.

303 Section 2. This act applies beginning with the 2021 tax  
304 roll.

305 Section 3. This act shall take effect on the effective date  
306 of the amendment to the State Constitution proposed by SJR \_\_\_\_  
307 or a similar joint resolution having substantially the same  
308 specific intent and purpose, if such amendment to the State  
309 Constitution is approved at the general election held in  
310 November 2020 or at an earlier special election specifically  
311 authorized by law for that purpose.





**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/CS/SB 540

INTRODUCER: Community Affairs Committee; Criminal Justice Committee; and Senators Book and Berman

SUBJECT: Human Trafficking

DATE: March 14, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Peacock</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 540 requires the creation and implementation of human trafficking awareness training for certain employees of public lodging and massage establishments and law enforcement officers.

Additionally, the bill creates the Soliciting for Prostitution Public Database (Database) and requires certain criminal history records to be included in the Database.

The bill also creates a direct-support organization (DSO) that will provide assistance, funding, and support to the Statewide Council on Human Trafficking. The bill provides that the DSO is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

The bill also provides that a victim of human trafficking will be eligible to petition for the expunction of his or her criminal history record relating to the offense of kidnapping that resulted from the arrest or filing of charges that was committed or reported to have been committed as part of the human trafficking scheme of which he or she was a victim.

The implementation of the training required by the bill is expected to have a fiscal impact on public lodging establishments, massage establishments, and the Florida Department of Law Enforcement (FDLE). Additionally, the FDLE is expected to incur costs associated with the administration of the Database. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

## II. Present Situation:

### Human Trafficking

Human trafficking is a form of modern-day slavery. Young children, teenagers, and adults are all victims of human trafficking, who are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.<sup>1</sup> Human trafficking is the third-largest international crime industry, generating a profit of an estimated \$32 billion every year.<sup>2</sup> In 2016, there were an estimated 40.3 million victims of human trafficking.<sup>3</sup>

From 2007-2017, there were 40,987 human trafficking cases reported to the National Human Trafficking Hotline (Hotline). In 2017, the Hotline and BeFree Textline recorded a total of 8,759 human trafficking cases in the U.S. alone, which represented a 13 percent jump in the number of identified human trafficking cases from the year prior.<sup>4</sup> The Hotline receives an average of 150 calls per day.<sup>5</sup>

Forced labor and sex trafficking are the most common types of human trafficking. Labor trafficking is “all work or service which is extracted from any person under the threat of penalty and for which the person has not offered himself or herself voluntarily.”<sup>6</sup> Sex trafficking “occurs when someone uses force, fraud or coercion to cause a commercial sex act with an adult or causes a minor to commit a commercial sex act.”<sup>7</sup> Sex trafficking accounted for 6,244 of the reported cases of human trafficking in 2017.<sup>8</sup>

Traffickers coerce victims into sex trafficking in numerous ways. Some victims may be forced into prostitution by an intimate partner while others may be recruited with a false job offer. Fake massage businesses, truck stops, and hotels and motels are all venues used in sex trafficking operations.<sup>9</sup>

In an effort to combat human trafficking in the United States, Congress passed the Trafficking Victims Protection Act (Act) in 2000 which established several methods of prosecuting

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<sup>1</sup> Section 787.06(1)(a), F.S.

<sup>2</sup> DoSomething.org, *11 Facts About Human Trafficking*, available at <https://www.dosomething.org/us/facts/11-facts-about-human-trafficking> (last visited February 13, 2019).

<sup>3</sup> International Labour Organization, *Forced labour, modern slavery and human trafficking*, available at <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> (last visited February 13, 2019).

<sup>4</sup> Polaris, *Growing Awareness. Growing Impact. 2017 Statistics from the National Human Trafficking Hotline and BeFree Textline*, available at <http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf> (last visited February 13, 2019).

<sup>5</sup> Polaris, *The Facts*, available at <https://polarisproject.org/human-trafficking/facts> (last visited February 13, 2019).

<sup>6</sup> Polaris, *What is forced labour, modern slavery and human trafficking*, available at <http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm> (last visited February 13, 2019).

<sup>7</sup> SharedHope International, *What is Sex Trafficking*, available at <https://sharedhope.org/the-problem/what-is-sex-trafficking/> (last visited February 13, 2019).

<sup>8</sup> *Supra* n. 4.

<sup>9</sup> Polaris, *Sex Trafficking*, available at <https://polarisproject.org/human-trafficking/sex-trafficking> (last visited February 13, 2019).

traffickers, preventing human trafficking, and protecting victims and survivors of trafficking. The Act contained severe penalties and mandated restitution for victims of human trafficking.<sup>10</sup>

### ***Human Trafficking in Florida***

Florida ranks third in the nation for reported cases of human trafficking.<sup>11</sup> From January through June of 2018, the Hotline had 367 human trafficking cases reported in Florida.<sup>12</sup> Children are often those targeted in trafficking operations, with 12-14 being the average age that a trafficked victim is first used for commercial sex.<sup>13</sup>

Florida law defines “human trafficking” to mean the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.<sup>14</sup> In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking commits the crime of human trafficking.<sup>15</sup> Such an offense is punishable as a first degree felony,<sup>16</sup> unless the person being sex trafficked is a child under the age of 18, mentally defective, or mentally incapacitated, then such an offense is punishable as a life felony.<sup>17</sup>

The number of human trafficking cases listed in reports may not accurately reflect the number of actual cases of human trafficking due to the fact that many traffickers are prosecuted for other crimes.<sup>18</sup> Additionally, prosecutors often have difficulty proving the relationship at issue is that of human trafficking or when dealing with a victim who might be unwilling to testify against his or her trafficker in court.<sup>19</sup>

Human trafficking cases are often hidden operations that require law enforcement agencies to engage in intricate investigations. In November 2018, an investigation in Polk County led to the arrest of 103 people for charges including prostitution and human trafficking.<sup>20</sup> Similarly, in January 2019, a two month-long investigation led to the arrest of a 36-year-old male in

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<sup>10</sup> Pub. L. No. 106-386 (2000).

<sup>11</sup> National Human Trafficking Hotline, *Hotline Statistics*, available at <https://humantraffickinghotline.org/states> (last visited February 13, 2019).

<sup>12</sup> National Human Trafficking Hotline, *Florida: Statistics*, available at <https://humantraffickinghotline.org/state/florida> (last visited February 13, 2019).

<sup>13</sup> Statewide Council on Human Trafficking, *Statewide Council on Human Trafficking Annual Reports*, available at <http://myfloridalegal.com/pages.nsf/Main/8AEA5858B1253D0D85257D34005AFA72> (last visited February 13, 2019).

<sup>14</sup> Section 787.06(2)(d), F.S.

<sup>15</sup> Section 787.06(3), F.S.

<sup>16</sup> A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>17</sup> Section 787.06(3)(a)-(g), F.S. A life felony is punishable by a state prison term for life, by a term of imprisonment not exceeding 40 years, a fine not exceeding \$15,000, or both. Sections 775.082 and 775.083, F.S.

<sup>18</sup> Nada Hassanein, *Preying on the vulnerable: Human trafficking prevalent yet elusive in the Big Bend*, Tallahassee Democrat, (June 27, 2018) available at <https://www.tallahassee.com/story/news/2019/01/27/preying-vulnerable-human-trafficking-alive-and-well-big-bend/2648630002/> (last visited February 13, 2019).

<sup>19</sup> *Id.*

<sup>20</sup> Daniel Dahm and Brianna Volz, *Orlando-area doctor among 103 arrested in Polk County sex sting, sheriff says*, ClickOrlando.com, (December 3, 2018) available at <https://www.clickorlando.com/news/103-arrested-in-polk-county-sex-sting> (last visited February 13, 2019).

Tallahassee on prostitution and sex trafficking charges involving a 14-year old girl. At the time of his arrest, the male was already facing charges for sex trafficking a child in 2014.<sup>21</sup>

### ***Human Trafficking in Public Lodging Establishments***

The Division of Hotels and Restaurants (Division) is a division within the Department of Business and Professional Regulation (DBPR) that licenses, inspects, and regulates public lodging and food service establishments pursuant to ch. 509, F.S.<sup>22</sup> The term “public lodging establishment” includes both transient<sup>23</sup> and nontransient<sup>24</sup> public lodging establishments. There are currently 44,903 public lodging establishments that are licensed by the Division.<sup>25</sup> The following are classified as public lodging establishments:<sup>26</sup>

- Hotel;
- Motel;
- Vacation rental;
- Nontransient apartment;
- Transient apartment;
- Bed and breakfast inn; and
- Timeshare project.<sup>27</sup>

Public lodging establishments, such as hotels and motels, can be attractive locations for human traffickers, due to the privacy and anonymity afforded.<sup>28</sup> Also, trafficking operations can maintain secrecy in such establishments due to the lack of facility maintenance or upkeep expenses.<sup>29</sup>

Sex trafficking operations are often set up in public lodging establishments via online advertising, without the establishment operator’s knowledge.<sup>30</sup> The use of websites to communicate and arrange meeting times and locations enables those involved in the operation to

<sup>21</sup> WTXL, *Human trafficking suspect accused of sex-trafficking child in Tallahassee*, (January 26, 2019) available at [http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article\\_9748879c-21a4-11e9-b768-5bb68f906ecc.html](http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article_9748879c-21a4-11e9-b768-5bb68f906ecc.html) (last visited February 13, 2019).

<sup>22</sup> Sections 509.013 and 509.032, F.S.

<sup>23</sup> “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. Section 509.013(4)(a)1., F.S.

<sup>24</sup> “Nontransient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. Section 509.013(4)(a)2., F.S.

<sup>25</sup> Department of Business and Professional Regulation, *Division of Hotels & Restaurants Annual Report 2017-18*, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2017\\_18.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2017_18.pdf) (last visited February 19, 2019).

<sup>26</sup> Section 509.242(1)(a)-(g), F.S., sets out criteria that must be met in order for an establishment to be classified as a public lodging establishment pursuant to ch. 509, F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Department of Homeland Security, *Human Trafficking and the Hospitality Industry*, (July 2018) pg. 16, available at <https://www.dhs.gov/blue-campaign/hospitalityindustry> (last visited February 12, 2019).

<sup>29</sup> National Human Trafficking Hotline, *Hotel/Motel-Based*, available at <https://humantraffickinghotline.org/sex-trafficking-venuesindustries/hotelmotel-based> (last visited February 13, 2019).

<sup>30</sup> Division of Hotels and Restaurants, *Human Trafficking Information Sheet*, (March 22, 2016) available at [http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022\\_104.pdf](http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022_104.pdf) (last visited February 12, 2019).

remain anonymous.<sup>31</sup> From December 2007 to December 2017, the Hotline recorded 3,596 cases of human trafficking involving a hotel or motel. Additionally, 75 percent of human trafficking survivors reported coming into contact with hotels at some point while being trafficked.<sup>32</sup>

The Division has emphasized the importance in educating staff at public lodging establishments on signs of trafficking activity. The following are ways to identify a victim of human trafficking:

- Signs of physical abuse or malnourishment;
- Person seems coached or controlled;
- Victim rarely left alone;
- Suspicious tattoos or branding on victim;
- Living conditions unsuitable;
- Victim demeaned or treated aggressively;
- Accompanied by older male;
- Avoids interaction with others;
- “Do not Disturb” sign used constantly;
- Receives lots of visitors;
- Pays for room with cash;
- Dresses inappropriately or provocatively;
- Few personal belongings;
- Refuses cleaning services;
- Room smells of bodily fluids and musk;
- Lots of cash in room;
- Alcohol and/or drugs in room; and
- Room monitored outside or in hallway.<sup>33</sup>

In an effort to deter traffickers from utilizing public lodging establishments in their operations, states have begun passing legislation. In 2016, Connecticut passed a law<sup>34</sup> and became the first state to require hospitality workers to be trained to detect and report human trafficking when they suspect such activity is going on at their place of employment. The training teaches workers about sex and labor trafficking, along with how to deter traffickers and help victims connect with services.<sup>35</sup> Additionally, Minnesota passed a law in 2018 that requires sex trafficking prevention training for all hotels and motels in the state.<sup>36</sup> The training requires all owners, managers, and

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<sup>31</sup> National Human Trafficking Hotline, *Hotel/Motel-Based*, available at <https://humantraffickinghotline.org/sex-trafficking-venuesindustries/hotelmotel-based> (last visited February 13, 2019).

<sup>32</sup> Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking*, (July 2018) available at <https://polarisproject.org/sites/default/files/A%20Roadmap%20for%20Systems%20and%20Industries%20to%20Prevent%20and%20Disrupt%20Human%20Trafficking%20-%20Hotels%20and%20Motels.pdf> (last visited February 12, 2019).

<sup>33</sup> Division of Hotels and Restaurants, *Human Trafficking Information Sheet*, (March 22, 2016) available at [http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022\\_104.pdf](http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022_104.pdf) (last visited February 12, 2019).

<sup>34</sup> Public Act No. 16-71, State of Connecticut (Substitute HB 5621) effective October 1, 2016.

<sup>35</sup> Susan Haigh, *Hotel Employees Get Training to Spot Human Trafficking*, Skift, (June 25, 2017) available at <https://skift.com/2017/06/25/hotel-employees-get-training-to-spot-human-trafficking/> (last visited February 12, 2019).

<sup>36</sup> 90th Legislature, State of Minnesota (SF 3367) effective August 1, 2018.

employees who work on site to be trained in identifying sex trafficking in their establishments and knowing how to respond.<sup>37</sup>

### ***Human Trafficking in Massage Establishments***

The Department of Health (DOH), Division of Medical Quality Assurance, Board of Massage Therapy (Board), licenses and regulates massage establishments<sup>38</sup> and massage therapists<sup>39</sup> pursuant to ch. 480, F.S.<sup>40</sup> There are currently 8,659 active massage establishments and 32,387 in-state active massage therapists that are licensed by the Board.<sup>41</sup> Sexual misconduct in the practice of massage therapy is prohibited.<sup>42</sup>

Sex trafficking operations are often set up in fake massage businesses claiming to offer legitimate services, such as massage, acupuncture, and other therapeutic, health, and spa services.<sup>43</sup> Common characteristics of these fake massage businesses that help them to appear like legitimate businesses include:

- Operating out of commercial spaces, such as strip malls,<sup>44</sup> office buildings, or medical complexes;
- Advertising in mainstream public venues, such as major newspapers and magazines, well-known online classified sites like Craigslist, and the Yellow Pages;
- Paying rent to legitimate landlords and paying taxes to the government;
- Offering a legal service, such as a massage;
- Displaying and utilizing items commonly used in therapeutic massage businesses, such as massage tables, saunas, and health related posters; and
- Acquiring proper business occupancy permits and licensure.<sup>45</sup>

The National Human Trafficking Hotline notes that illicit spa/massage business is one of the top venues for sex trafficking.<sup>46</sup>

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<sup>37</sup> Minnesota Department of Health, *Sex Trafficking Prevention and Response Training for the Minnesota Lodging Industry*, available at <http://www.health.state.mn.us/hoteltrafficking> (last visited February 12, 2019).

<sup>38</sup> Section 480.043, F.S.

<sup>39</sup> Section 480.041, F.S.

<sup>40</sup> Also, see ch. 456 (Health Professions and Occupations: General Provisions), F.S.

<sup>41</sup> Department of Health, *Division of Medical Quality Assurance, Annual Report & Long-Range Plan Fiscal Year 2017-18*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1718.pdf> (last visited March 13, 2019).

<sup>42</sup> Section 480.0485, F.S.

<sup>43</sup> National Human Trafficking Hotline, *Fake Massage Businesses in the United States*, available at <https://humantraffickinghotline.org/sites/default/files/Fake%20Massage%20Businesses%20AAG.pdf> (last visited March 13, 2019).

<sup>44</sup> Robert Kraft, owner of the New England Patriots, was recently charged with two counts of soliciting sex at a strip mall spa in Jupiter, Florida. The charges were part of a broad investigation into prostitution and suspected human trafficking in day spas and massage parlors in South Florida. See New York Times, *Patriots Owner Robert Kraft Charged in Florida Prostitution Investigation* (February 22, 2019), available at <https://www.nytimes.com/2019/02/22/sports/robert-kraft-jupiter-orchids-arrest.html> (last visited March 13, 2019).

<sup>45</sup> See *supra* note \_\_\_\_.

<sup>46</sup> National Human Trafficking Hotline, *Hotline Statistics*, available at <https://humantraffickinghotline.org/states> (last visited March 13, 2019).

### ***Human Trafficking Expunction of Criminal History Record***

Florida law makes adult criminal history records accessible to the public unless the record has been sealed or expunged.<sup>47</sup> Sealed records are placed under highly restricted access, while expunged records are removed from record systems and destroyed.<sup>48</sup>

Section 943.0583, F.S., establishes the process available to a victim of human trafficking<sup>49</sup> who is seeking to have his or her criminal history record expunged. A “victim of human trafficking” means a person subjected to coercion<sup>50</sup> for the purpose of being used in human trafficking, a child younger than 18 years of age who is subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.<sup>51</sup>

A victim of human trafficking is permitted to petition for the expunction of his or her criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed as part of the human trafficking scheme of which he or she was a victim. The expunction process is applicable to violations including, but not limited to, those listed under chs. 796<sup>52</sup> and 847, F.S.,<sup>53</sup> without regard to the disposition of the arrest or of any charges.<sup>54</sup>

However, this expunction process is not allowed if a person has committed one of the following enumerated offenses:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;

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<sup>47</sup> Florida Department of Law Enforcement, *Seal and Expunge Process*, available at <http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx> (last visited February 13, 2019). See s. 943.053, F.S.

<sup>48</sup> “Expunction of a criminal history record” is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the Florida Department of Law Enforcement (FDLE) must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.

<sup>49</sup> Human trafficking has the same meaning as provided in s. 787.06(2)(d), F.S.

<sup>50</sup> “Coercion” means using or threatening to use physical force against any person; restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; causing or threatening to cause financial harm to any person; enticing or luring any person by fraud or deceit; or providing a controlled substance as outlined in s. 893.03, F.S., to any person for the purpose of exploitation of that person. Section 787.06(2)(a)1.-7., F.S.

<sup>51</sup> Section 943.0583(1)(c), F.S.

<sup>52</sup> Ch. 796, F.S., covers prostitution and other related acts.

<sup>53</sup> Ch. 847, F.S., covers obscenity and other related acts.

<sup>54</sup> Section 943.0583(3), F.S.

- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery; or
- Aggravated stalking.<sup>55</sup>

### **Prostitution and Other Prohibited Acts**

Prostitution is prohibited throughout the United States, with the exception of a few counties in Nevada. Broadly defined, it involves the exchange of sexual activity for money. While laws relating to prostitution vary across jurisdictions, many are often closely related to laws concerning human trafficking.<sup>56</sup>

Current law in Florida defines prostitution as the giving or receiving of the body for sexual activity for hire.<sup>57</sup> Prostitution rings are often hidden operations. As a result, police officers go undercover in an effort to conduct prostitution stings. In the City of Cocoa, six suspects were arrested in January 2019 after an undercover police officer who was posing as a prostitute was approached by the individuals who subsequently agreed to pay the officer for the services of a prostitute.<sup>58</sup>

Another tool commonly employed by those engaging in prostitution is the Internet, which is utilized similarly in human trafficking operations. Thus, law enforcement agencies use the Internet to attempt to crack down on prostitution activity. In January 2019, four people were arrested in Tallahassee in conjunction with an undercover prostitution operation that was aimed at reducing street level prostitution in the capital city. After an undercover police officer contacted the suspects through an online advertisement that had indicators of being associated with prostitution activity and met with each suspect individually at an undisclosed hotel, the officer placed each of them under arrest.<sup>59</sup>

Section 796.07(2)(f), F.S., prohibits the solicitation, inducement, enticement, or procurement of another to commit prostitution, lewdness, or assignment.<sup>60</sup> Those terms are defined in the following ways:

- “Lewdness” means any indecent or obscene act; and

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<sup>55</sup> Sections 943.0583(3) and 775.084(1)(b)1., F.S.

<sup>56</sup> Justia, *Prostitution*, available at <https://www.justia.com/criminal/offenses/sex-crimes/prostitution/> (last visited February 13, 2019).

<sup>57</sup> This definition excludes sexual activity between spouses. Section 796.07(1)(a), F.S.

<sup>58</sup> Caryn Shaffer, *Six arrested in Cocoa police operation targeting prostitution*, Florida Today, (January 28, 2019) available at <https://www.floridatoday.com/story/news/crime/2019/01/28/six-arrested-cocoa-after-soliciting-undercover-cop-disguised-prostitute/2706115002/> (last visited February 13, 2019).

<sup>59</sup> WTXL, *Four arrested in undercover prostitution sting in Tallahassee*, (January 14, 2019) available at [http://www.wtxl.com/news/four-arrested-in-undercover-prostitution-sting-in-tallahassee/article\\_47c5602a-182e-11e9-aa98-0bf1f95703cb.html](http://www.wtxl.com/news/four-arrested-in-undercover-prostitution-sting-in-tallahassee/article_47c5602a-182e-11e9-aa98-0bf1f95703cb.html) (last visited February 13, 2019).

<sup>60</sup> Section 796.07(2)(f), F.S.



- “Assignment” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.<sup>61</sup>

A person who violates s. 796.07(2)(f), F.S., commits:

- A misdemeanor of the first degree<sup>62</sup> for a first violation;
- A felony of the third degree<sup>63</sup> for a second violation; and
- A felony of the second degree<sup>64</sup> for a third or subsequent violation.<sup>65</sup>

### **Statewide Council on Human Trafficking**

In 2014, the Statewide Council on Human Trafficking was created within the Department of Legal Affairs.<sup>66</sup> The purpose of the council is to enhance the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims.<sup>67</sup> The fifteen member council is chaired by the Attorney General.<sup>68</sup> The council’s duties include:

- Developing recommendations for comprehensive programs and services for victims of human trafficking, including recommendations for certification criteria for safe houses and safe foster homes;
- Making recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses;
- Holding an annual statewide policy summit with an institution of higher learning;
- Working with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in each county; and
- Developing policy recommendations that advance the duties of the council and further the efforts to combat human trafficking in Florida.<sup>69</sup>

### **Direct-Support Organizations**

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The purpose and functions of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

<sup>61</sup> Section 796.07(1)(b) and (c), F.S.

<sup>62</sup> A first degree misdemeanor is punishable by a state prison term not exceeding 1 year, a fine not exceeding \$1,000, or both. Sections 775.082 and 775.083, F.S.

<sup>63</sup> A third degree felony is punishable by a state prison term not exceeding 5 years, a fine not exceeding \$5,000, or both. Sections 775.082 and 775.083, F.S.

<sup>64</sup> A second degree felony is punishable by a state prison term not exceeding 15 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>65</sup> Section 796.07(5)(a)1.-3., F.S.

<sup>66</sup> Ch. 2014-161, s. 9, Laws of Fla. *Also, see* Florida Office of the Attorney General, Statewide Council on Human Trafficking, available at <http://myfloridalegal.com/pages.nsf/Main/8AEA5858B1253D0D85257D34005AFA72> (last visited on March 13, 2019).

<sup>67</sup> Section 16.617(1), F.S.

<sup>68</sup> Section 16.617(2), F.S.

<sup>69</sup> Section 16.617(4), F.S.

Section 20.058, F.S., establishes the rules and procedures that a CSO or DSO must follow to remain in compliance. By August 1 of each year, a CSO or DSO must submit the following information to the agency it was created, approved, or is administered by:

- The name, mailing address, phone number, and website of the organization;
- The statutory authority or executive order pursuant to which the organization was created;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the plans of the organization for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent tax exemption form.<sup>70</sup>

Each agency receiving such information from a CSO or DSO must make it available to the public through the agency's website. By August 15 of each year, each agency must submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability with the information provided and must include a recommendation to continue, terminate, or modify the agency's association with each CSO or DSO in the report. Furthermore, any contract between an agency and a CSO or DSO must be contingent upon the timely submission and posting of the information listed above. The contract must also provide for the cessation of operations and the reversion of state funds held by the CSO or DSO in the event that the statute authorizing the creation of the CSO or DSO is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head must terminate any contract between the agency and the CSO or DSO.<sup>71</sup>

Additionally, each CSO or DSO with annual expenditures in excess of \$100,000, created or authorized pursuant to law, and created, approved, or administered by a state agency, must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant. The audit must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for the creation, administration, or approval of the CSO or DSO.<sup>72</sup>

Laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.<sup>73</sup>

### **III. Effect of Proposed Changes:**

#### **Human Trafficking Training**

##### ***Public Lodging Establishments (Section 3, creating s. 509.096, F.S.)***

The bill requires a public lodging establishment to create and implement human trafficking awareness training and policies for employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check-in or check out.

<sup>70</sup> Section 20.058(1)(a)-(f), F.S.

<sup>71</sup> Section 20.058(2)-(4), F.S.

<sup>72</sup> Section 215.981(1), F.S.

<sup>73</sup> Section 20.058(5), F.S.

A public lodging establishment must:

- Train certain employees on human trafficking awareness within 6 months after employment, or by January 1, 2020, whichever occurs later. Proof of such employee training must be provided to the Division upon request;
- Implement a procedure for the reporting of suspected human trafficking to the Hotline or to a local law enforcement agency by January 1, 2020; and
- Post a sign with the relevant provisions of the reporting procedure in a conspicuous place in the establishment that is accessible to employees by January 1, 2020.

Such training must include:

- The definition of human trafficking and the differences between sex trafficking and labor trafficking;
- Guidance specific to the public lodging sector on how to identify individuals who may be victims of human trafficking; and
- Guidance on the role of the employees of a public lodging establishment in reporting and responding to suspected human trafficking.

The training must be submitted to and approved by the Division before being provided to employees. The Division may take disciplinary action<sup>74</sup> against a public lodging establishment that has operated or is operating in violation of the human trafficking training required pursuant to the bill.

The bill does not establish a private cause of action and a public lodging establishment is not liable for any harm resulting from the failure of an employee to prevent, detect, or report suspected human trafficking if the public lodging establishment was in compliance with the training requirements at the time of such harm.

***Massage Establishments (Section 2, amending s. 480.043, F.S.)***

The bill requires a massage establishment to create and implement human trafficking awareness to massage therapists and employees of the establishment who ordinarily interact with guests.

A massage establishment must:

- Train certain employees on human trafficking awareness within 6 months after employment, or by January 1, 2020, whichever occurs later. Proof of such employee training must be provided to the Board upon request;
- Implement a procedure for the reporting of suspected human trafficking to the Hotline or to a local law enforcement agency by January 1, 2020; and
- Post a sign with the relevant provisions of the reporting procedure in a conspicuous place in the establishment that is accessible to employees by January 1, 2020.

Such training must include:

- The definition of human trafficking and the differences between sex trafficking and labor trafficking;

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<sup>74</sup> Section 509.261, F.S., establishes potential consequences that a public lodging establishment may be subjected to if it is in violation of ch. 509, F.S., or the rules of the Division.

- Guidance specific to the massage establishment sector on how to identify individuals who may be victims of human trafficking; and
- Guidance on the role of the employees of a massage establishment in reporting and responding to suspected human trafficking.

The training must be submitted to and approved by DOH before being provided to employees. The Board may take disciplinary action against a massage establishment that has operated or is operating in violation of the human trafficking training required pursuant to the bill.

The bill does not establish a private cause of action and a massage establishment is not liable for any harm resulting from the failure of an employee to prevent, detect, or report suspected human trafficking if the massage establishment was in compliance with the training requirements at the time of such harm.

***Law Enforcement (Section 7, creating s. 943.17297, F.S.)***

Section 943.13, F.S., establishes minimum qualifications that must be met for a person to become a certified law enforcement officer. Identifying and investigating human trafficking has been a part of this basic training since 2007.<sup>75</sup> Additionally, the Criminal Justice Standards and Training Commission<sup>76</sup> (Commission) offers a 40-hour post-basic course on Advanced Investigative Techniques of Human Trafficking Offenses, which provides a framework for initiating and conducting investigations of human trafficking offenses including the nature and scope of human trafficking and rescue and restoration of the victim.<sup>77</sup>

The bill requires certified law enforcement officers to complete 4 hours of training on identifying and investigating human trafficking as part of basic recruit training required under s. 943.13(9), F.S., or continuing education required under s. 943.135(1), F.S., before July 1, 2022. The training must be developed by the Commission in consultation with the Department of Children and Families (DCF) and the Statewide Council on Human Trafficking<sup>78</sup> and must be part of the required basic recruit and continuing education training.

The bill provides that an officer who fails to complete the required training will have an inactive certification until the employing agency notifies the Commission that the officer has completed the training.

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<sup>75</sup> Florida Department of Law Enforcement, *2019 Legislative Bill Analysis for SB 540*, (February 4, 2019) (on file with the Senate Criminal Justice Committee).

<sup>76</sup> The Criminal Justice Standards and Training Commission is within the FDLE and was created pursuant to s. 943.11, F.S. The Commission is tasked with establishing uniform minimum training standards for the training of officers in the various criminal justice disciplines and establishing minimum curricular requirements for criminal justice training schools, among other things. *See generally* s. 943.12, F.S.

<sup>77</sup> *Supra* n. 62.

<sup>78</sup> The Statewide Council on Human Trafficking was created in 2014 pursuant to s. 16.617, F.S. The Council was created to support human trafficking victims by enhancing care options available to them. The Attorney General chairs the Council, which is tasked with working with the DCF to create and maintain an inventory of human trafficking programs and services in Florida, developing overall policy recommendations, among other things. Section 16.617(4), F.S., and *supra*. n. 13.

**Human Trafficking Victim Expunction (Section 6, amending s. 943.0583, F.S.)**

Current law provides that a victim of human trafficking may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed while the person was a victim of human trafficking. However, a victim of human trafficking is not eligible to petition for such an expunction if the record at issue involves a violation of an enumerated offense in s. 775.084(1)(b)1., F.S. Kidnapping is among those listed offenses; however, the bill excludes kidnapping from this list and as a result, a victim of human trafficking would be eligible to petition for the expunction of a violation of kidnapping from his or her criminal history record.

**Soliciting for Prostitution Public Database (Section 4, amending s. 796.07, F.S., and Section 5, creating s. 943.0433, F.S.)**

The bill creates the Soliciting for Prostitution Public Database (Database) and requires the FDLE to adopt rules to administer the Database. The bill requires the clerk of the court to forward the criminal history record of a person who is convicted or pleads guilty or nolo contendere to soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation, pursuant to s. 796.07(2)(f), F.S., regardless of whether adjudication is withheld, to the FDLE for inclusion in the Database.

The FDLE must automatically remove the criminal history record of a person on the Database for a first violation of s. 796.07(2)(f), F.S., if, after 5 years after the person's conviction, such person has not again violated s. 796.07(2)(f), F.S., and has not committed any other offense within that time that would constitute a sexual offense, including, but not limited to, human trafficking or an offense that would require registration as a sexual offender.

The FDLE may not remove a criminal history record from the Database if a person violates s. 796.07(2)(f), F.S., a second or subsequent time.

The Database must include all of the following on each offender:

- His or her full legal name;
- His or her last known address;
- A color photograph of him or her; and
- The offense for which he or she was convicted.

**Direct-support organization (Section 1, creating s. 16.618, F.S.)**

The bill requires the Department of Legal Affairs (DLA), to establish a DSO to provide assistance, funding, and support to the Statewide Council on Human Trafficking and to assist in the fulfillment of the council's purpose. The DSO must be:

- A Florida corporation, not for profit, incorporated under ch. 617, F.S., and approved by the Secretary of State;
- Organized and operated exclusively to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, property and funds; and make expenditures in support of the purposes specified in the bill; and

- Certified by the DLA, after review, to be operating in a manner consistent with the purposes of the DSO and in the best interests of the state.

The bill requires the DSO to operate under written contract with the DLA, which must provide for:

- Approval of the DSO's articles of incorporation and bylaws by the DLA;
- Submission of an annual budget for approval by the DLA;
- Annual certification by the DLA that the DSO is complying with the contractual terms and operating in a manner consistent with the DSO's purposes and in the best interests of the state;
- Reversion to the Florida Council Against Sexual Violence<sup>79</sup> of moneys and property held in trust by the DSO if the DSO is no longer approved to operate or ceases to exist;
- Disclosure of the material provisions of the contract and the distinction between the board of directors and the DSO to donors of gifts, contributions, or bequests, which disclosures must be included in all promotional and fundraising publications;
- An annual financial audit in accordance with s. 215.981, F.S.;
- Establishment of the fiscal year of the DSO as beginning on July 1 of each year and ending on June 30 of the following year;
- Appointment of the board of directors, as specified below; and
- Authority of the DSO's board of directors to hire an executive director.

The bill requires the DSO's board of directors to consist of 7 members, each being appointed to a four-year term. However, for the purpose of providing staggered terms, the bill provides that the Speaker of the House of Representatives and the President of the Senate must each initially appoint one member and the Attorney General must initially appoint two members. These four initial appointments are for two-year terms and all subsequent appointments are for four-year terms.

The board of directors is appointed as follows:

- Four members appointed by the Attorney General, one of which must be a survivor of human trafficking and one of which must be a mental health expert;
- One member appointed by the Governor;
- One member appointed by the Speaker of the House of Representatives; and
- One member appointed by the President of the Senate.

Any vacancy that occurs must be filled in the same manner as the original appointment for the unexpired term of that seat.

In conjunction with the Statewide Council on Human Trafficking, and funded exclusively by the DSO, the DSO shall form strategic partnerships to foster the development of community and private sector resources to advance the goals of the council.

The DSO must consider the participation of counties and municipalities in this state which

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<sup>79</sup> The Florida Council Against Sexual Violence (FCASV) is a statewide nonprofit organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them. See FCASV, *About FCASV*, available at <https://www.fcasv.org/about-fcasv> (last visited February 13, 2019).

demonstrate a willingness to participate and an ability to be successful in any programs funded by the DSO.

The DLA may authorize the appropriate use without charge, of the DLA's property, facilities, and personnel by the DSO. The use must be for the approved purposes of the DSO and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use departmental facilities.

The DLA shall prescribe by agreement conditions with which the DSO must comply in order to use DLA property, facilities, or personnel. Such conditions must provide for budget and audit review and oversight by the DLA.

The DLA may not authorize the use of property, facilities, or personnel of the council, department, or designated program by the DSO which does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The DSO may conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the council or designated program.

Notwithstanding s. 287.025(1)(e), F.S.,<sup>80</sup> the DSO may enter into contracts to insure the property of the council or designated programs and may insure objects or collections on loan from other entities in satisfying security terms of the lender.

A DLA employee, a DSO or council employee, a volunteer, or a director or a designated program may not:

- Receive a commission, fee, or financial benefit in connection with serving on the council; or
- Be a business associate of any individual, firm, or organization involved in the sale or the exchange of real or personal property to the DSO, the council, or a designated program.

All moneys received by the DSO shall be deposited into an account of the DSO and shall be used in a manner consistent with the goals of the council or designated program.

The DLA may terminate its agreement with the DSO at any time if the DLA determines that the DSO does not meet the objectives of this section.

The bill provides that the DSO is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

The bill is effective July 1, 2019.

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<sup>80</sup> Section 287.025(1)(e), F.S., prohibits certain insurance coverage on specified state property or insurable subjects.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The FDLE and public lodging and massage establishments are expected to incur costs associated with the training required by the bill. The FDLE anticipates such fiscal impact to be approximately \$19,910, due to the Commission being able to revise current law enforcement training to comply with the bill.<sup>81</sup>

The fiscal impact for the bill is indeterminate in regards to the administration of the Database. The FDLE would need further clarifying information relating to the logistics of the Database in order to assess the fiscal impact required for its maintenance.<sup>82</sup>

**VI. Technical Deficiencies:**

None.

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<sup>81</sup> *Supra* n. 62.

<sup>82</sup> *Id.*



## VII. Related Issues:

Language in the whereas clauses contained in CS/CS/SB 540 describes the purpose for establishing the Database as creating a deterrent for the commission of human trafficking. However, the Database in operation will collect and centralize information relating to those convicted of *soliciting prostitution*, regardless of whether the person subject to the solicitation is a victim of human trafficking or not. Therefore, the Database may not be narrowly tailored in its execution to carry out the intent for its creation.

Furthermore, the Database operates very similarly to a registry and therefore, may be regarded as such by the courts. If the courts determine that the purpose of the Database is to establish a civil regulatory scheme, then an inquiry will be made into whether the statute creating the Database is primarily punitive in nature. If it is determined that the statutory scheme is so punitive either in purpose or effect as to negate the intention to deem it civil, then it could be held unconstitutional.<sup>83</sup>

Additionally, in contrast to other registry statutes, the Database is devoid of explicit language to indicate it will operate prospectively. For example, s. 775.21, F.S., creates the sex offender registry and provides in part that a person will be designated as a sexual predator following the commission of certain acts *on or after* October 1, 1993.<sup>84</sup> If the Database operates retroactively, the court may find that it is unconstitutional in violation of the *Ex Post Facto* Clause, which prohibits states from enacting laws that change the punishment, and inflict a greater punishment, than the law in place when committed.<sup>85</sup>

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 480.043, 796.07 and 954.0583.

This bill creates the following sections of the Florida Statutes: 16.618, 509.096, 943.0433, and 943.17297.

## IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

### **CS by Community Affairs on March 12, 2019:**

The Committee Substitute:

- Moves the statutory authority for the human trafficking DSO from DCF to the DLA and requires the DSO to provide assistance and support to the Statewide Council on Human Trafficking;

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<sup>83</sup> *Smith v. Doe*, 538 U.S. 84 at 85 (2003).

<sup>84</sup> Section 775.21(5), F.S.

<sup>85</sup> *Calder v. Bull*, 3 U.S. 386, 390 (1798).

- Reduces the membership of the DSO board of directors from 13 members to 7 and requires a survivor of human trafficking and a mental health expert be appointed to the board;
- Requires certain employees of a massage establishment to complete human trafficking training within 6 months of being hired or by January 1, 2020, whichever occurs later;
- Requires the human trafficking training for massage establishment employees be submitted to DOH for approval before being given to employees;
- Requires the training to educate employees on what human trafficking is, in addition to how to identify individuals who may be victims;
- Permits the Board of Massage Therapy to take disciplinary action against a massage establishment that doesn't meet the training requirements established;
- Changes the due date to January 1, 2020, for human trafficking awareness training to specified employees of public lodging establishments, implementation of procedures for reporting suspected human trafficking to the Hotline or local law enforcement, and posting of sign with reporting procedures;
- Creates the Soliciting for Prostitution Public Database, in place of the Soliciting for Prostitution Registry; and
- Requires FDLE to remove and maintain certain criminal history records on the Database under specified circumstances.

**CS by Criminal Justice on February 19, 2019:**

The Committee Substitute:

- Requires certain employees of a public lodging establishment to complete human trafficking training within 6 months of being hired or by January 1, 2021, whichever occurs later;
- Requires the human trafficking training be submitted to the Division for approval before being given to employees;
- Requires the training to educate employees on what human trafficking is, in addition to how to identify individuals who may be victims;
- Permits the Division to take disciplinary action against a public lodging establishment that doesn't meet the training requirements established;
- Clarifies the purposes for the direct-support organization created; and
- Requires the Commission and others to develop a 4-hour training for law enforcement officers to complete either as part of basic recruit training or continuing education.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2019	.	
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The Committee on Community Affairs (Book) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 16.618, Florida Statutes, is created to read:

16.618 Direct-support organization.—

(1) The Department of Legal Affairs shall establish a direct-support organization to provide assistance, funding, and support to the Statewide Council on Human Trafficking and to assist in the fulfillment of the council's purposes. The direct-



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12 support organization must be:

13 (a) A Florida corporation, not for profit, incorporated  
14 under chapter 617, and approved by the Secretary of State;

15 (b) Organized and operated exclusively to solicit funds;  
16 request and receive grants, gifts, and bequests of money;  
17 acquire, receive, hold, invest, and administer, in its own name,  
18 property and funds; and make expenditures in support of the  
19 purposes specified in this section; and

20 (c) Certified by the department, after review, to be  
21 operating in a manner consistent with the purposes of the  
22 organization and in the best interests of this state.

23 (2) The direct-support organization shall operate under  
24 written contract with the department. The contract must provide  
25 for all of the following:

26 (a) Approval of the articles of incorporation and bylaws of  
27 the direct-support organization by the department.

28 (b) Submission of an annual budget for approval by the  
29 department.

30 (c) Annual certification by the department that the direct-  
31 support organization is complying with the terms of the contract  
32 and is operating in a manner consistent with the purposes of the  
33 organization and in the best interests of this state.

34 (d) Reversion to the Florida Council Against Sexual  
35 Violence of moneys and property held in trust by the direct-  
36 support organization if the direct-support organization is no  
37 longer approved to operate or if it ceases to exist.

38 (e) Disclosure of the material provisions of the contract  
39 and the distinction between the board of directors and the  
40 direct-support organization to donors of gifts, contributions,



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41 or bequests, which disclosures must be included in all  
42 promotional and fundraising publications.

43 (f) An annual financial audit in accordance with s.  
44 215.981.

45 (g) Establishment of the fiscal year of the direct-support  
46 organization as beginning on July 1 of each year and ending on  
47 June 30 of the following year.

48 (h) Appointment of the board of directors, pursuant to this  
49 section.

50 (i) Authority of the board of directors of the direct-  
51 support organization to hire an executive director.

52 (3) The board of directors of the direct-support  
53 organization shall consist of seven members. Each member of the  
54 board of directors shall be appointed to a 4-year term; however,  
55 for the purpose of providing staggered terms, the appointee of  
56 the President of the Senate and the appointee of the Speaker of  
57 the House of Representatives shall each initially be appointed  
58 to a 2-year term, and the Attorney General shall initially  
59 appoint two members to serve 2-year terms. All subsequent  
60 appointments shall be for 4-year terms. Any vacancy that occurs  
61 must be filled in the same manner as the original appointment  
62 and is for the unexpired term of that seat. The board of  
63 directors shall be appointed as follows:

64 (a) Four members appointed by the Attorney General, one of  
65 which must be a survivor of human trafficking and one of which  
66 must be a mental health expert.

67 (b) One member appointed by the Governor.

68 (c) One member appointed by the President of the Senate.

69 (d) One member appointed by the Speaker of the House of



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70 Representatives.

71 (4) In conjunction with the Statewide Council on Human  
72 Trafficking, and funded exclusively by the direct-support  
73 organization, the direct-support organization shall form  
74 strategic partnerships to foster the development of community  
75 and private sector resources to advance the goals of the  
76 council.

77 (5) The direct-support organization shall consider the  
78 participation of counties and municipalities in this state which  
79 demonstrate a willingness to participate and an ability to be  
80 successful in any programs funded by the direct-support  
81 organization.

82 (6) (a) The department may authorize the appropriate use  
83 without charge, of the department's property, facilities, and  
84 personnel by the direct-support organization. The use must be  
85 for the approved purposes of the direct-support organization and  
86 may not be made at times or places that would unreasonably  
87 interfere with opportunities for the general public to use  
88 departmental facilities.

89 (b) The department shall prescribe by agreement conditions  
90 with which the direct-support organization must comply in order  
91 to use department property, facilities, or personnel. Such  
92 conditions must provide for budget and audit review and  
93 oversight by the department.

94 (c) The department may not authorize the use of property,  
95 facilities, or personnel of the council, department, or  
96 designated program by the direct-support organization which does  
97 not provide equal employment opportunities to all persons  
98 regardless of race, color, religion, sex, age, or national



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99 origin.

100 (7) (a) The direct-support organization may conduct programs  
101 and activities; raise funds; request and receive grants, gifts,  
102 and bequests of money; acquire, receive, hold, invest, and  
103 administer, in its own name, securities, funds, objects of  
104 value, or other property, real or personal; and make  
105 expenditures to or for the direct or indirect benefit of the  
106 council or designated program.

107 (b) Notwithstanding s. 287.025(1)(e), the direct-support  
108 organization may enter into contracts to insure the property of  
109 the council or designated programs and may insure objects or  
110 collections on loan from other entities in satisfying security  
111 terms of the lender.

112 (8) A departmental employee, a direct-support organization  
113 or council employee, a volunteer, or a director or a designated  
114 program may not:

115 (a) Receive a commission, fee, or financial benefit in  
116 connection with serving on the council; or

117 (b) Be a business associate of any individual, firm, or  
118 organization involved in the sale or the exchange of real or  
119 personal property to the direct-support organization, the  
120 council, or a designated program.

121 (9) All moneys received by the direct-support organization  
122 shall be deposited into an account of the direct-support  
123 organization and shall be used in a manner consistent with the  
124 goals of the council or designated program.

125 (10) The department may terminate its agreement with the  
126 direct-support organization at any time if the department  
127 determines that the direct-support organization does not meet



128 the objectives of this section.

129 (11) This section is repealed October 1, 2024, unless  
130 reviewed and saved from repeal by the Legislature.

131 Section 2. Section 480.043, Florida Statutes, is amended to  
132 read:

133 480.043 Massage establishments; requisites; licensure;  
134 inspection; human trafficking awareness training and policies;  
135 enforcement.—

136 (1) No massage establishment shall be allowed to operate  
137 without a license granted by the department in accordance with  
138 rules adopted by the board.

139 (2) A person who has an ownership interest in an  
140 establishment shall submit to the background screening  
141 requirements under s. 456.0135. However, if a corporation  
142 submits proof of having more than \$250,000 of business assets in  
143 this state, the department shall require the owner, officer, or  
144 individual directly involved in the management of the  
145 establishment to submit to the background screening requirements  
146 of s. 456.0135. The department may adopt rules regarding the  
147 type of proof that may be submitted by a corporation.

148 (3) The board shall adopt rules governing the operation of  
149 establishments and their facilities, personnel, safety and  
150 sanitary requirements, financial responsibility, insurance  
151 coverage, and the license application and granting process.

152 (4) Any person, firm, or corporation desiring to operate a  
153 massage establishment in the state shall submit to the  
154 department an application, upon forms provided by the  
155 department, accompanied by any information requested by the  
156 department and an application fee.





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157           (5) Upon receiving the application, the department may  
158 cause an investigation to be made of the proposed massage  
159 establishment.

160           (6) If, based upon the application and any necessary  
161 investigation, the department determines that the proposed  
162 establishment would fail to meet the standards adopted by the  
163 board under subsection (3), the department shall deny the  
164 application for license. Such denial shall be in writing and  
165 shall list the reasons for denial. Upon correction of any  
166 deficiencies, an applicant previously denied permission to  
167 operate a massage establishment may reapply for licensure.

168           (7) If, based upon the application and any necessary  
169 investigation, the department determines that the proposed  
170 massage establishment may reasonably be expected to meet the  
171 standards adopted by the department under subsection (3), the  
172 department shall grant the license under such restrictions as it  
173 shall deem proper as soon as the original licensing fee is paid.

174           (8) The department shall deny an application for a new or  
175 renewal license if a person with an ownership interest in the  
176 establishment or, for a corporation that has more than \$250,000  
177 of business assets in this state, the owner, officer, or  
178 individual directly involved in the management of the  
179 establishment has been convicted or found guilty of, or entered  
180 a plea of guilty or nolo contendere to, regardless of  
181 adjudication, a violation of s. 796.07(2)(a) which is  
182 reclassified under s. 796.07(7) or a felony offense under any of  
183 the following provisions of state law or a similar provision in  
184 another jurisdiction:

185           (a) Section 787.01, relating to kidnapping.



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- 186 (b) Section 787.02, relating to false imprisonment.
- 187 (c) Section 787.025, relating to luring or enticing a  
188 child.
- 189 (d) Section 787.06, relating to human trafficking.
- 190 (e) Section 787.07, relating to human smuggling.
- 191 (f) Section 794.011, relating to sexual battery.
- 192 (g) Section 794.08, relating to female genital mutilation.
- 193 (h) Former s. 796.03, relating to procuring a person under  
194 the age of 18 for prostitution.
- 195 (i) Former s. 796.035, relating to selling or buying of  
196 minors into prostitution.
- 197 (j) Section 796.04, relating to forcing, compelling, or  
198 coercing another to become a prostitute.
- 199 (k) Section 796.05, relating to deriving support from the  
200 proceeds of prostitution.
- 201 (l) Section 796.07(4)(a)3., relating to a felony of the  
202 third degree for a third or subsequent violation of s. 796.07,  
203 relating to prohibiting prostitution and related acts.
- 204 (m) Section 800.04, relating to lewd or lascivious offenses  
205 committed upon or in the presence of persons less than 16 years  
206 of age.
- 207 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
208 offenses committed upon or in the presence of an elderly or  
209 disabled person.
- 210 (o) Section 827.071, relating to sexual performance by a  
211 child.
- 212 (p) Section 847.0133, relating to the protection of minors.
- 213 (q) Section 847.0135, relating to computer pornography.
- 214 (r) Section 847.0138, relating to the transmission of



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215 material harmful to minors to a minor by electronic device or  
216 equipment.

217 (s) Section 847.0145, relating to the selling or buying of  
218 minors.

219 (9) (a) Once issued, no license for operation of a massage  
220 establishment may be transferred from one owner to another.

221 (b) A license may be transferred from one location to  
222 another only after inspection and approval by the board and  
223 receipt of an application and inspection fee set by rule of the  
224 board, not to exceed \$125.

225 (c) A license may be transferred from one business name to  
226 another after approval by the board and receipt of an  
227 application fee set by rule of the board, not to exceed \$25.

228 (10) Renewal of license registration for massage  
229 establishments shall be accomplished pursuant to rules adopted  
230 by the board. The board is further authorized to adopt rules  
231 governing delinquent renewal of licenses and may impose penalty  
232 fees for delinquent renewal.

233 (11) The board is authorized to adopt rules governing the  
234 periodic inspection of massage establishments licensed under  
235 this act.

236 (12) A person with an ownership interest in or, for a  
237 corporation that has more than \$250,000 of business assets in  
238 this state, the owner, officer, or individual directly involved  
239 in the management of an establishment that was issued a license  
240 before July 1, 2014, shall submit to the background screening  
241 requirements of s. 456.0135 before January 31, 2015.

242 (13) (a) A massage establishment shall:

243 1. Provide training regarding human trafficking awareness



244 to massage therapists and employees of the establishment who  
245 ordinarily interact with guests. Such training must be provided  
246 to such massage therapists and employees within 6 months after  
247 their employment in that role, or by January 1, 2021, whichever  
248 occurs later. Proof of such employee training must be provided  
249 to the board upon request.

250 2. By January 1, 2021, implement a procedure for the  
251 reporting of suspected human trafficking to the National Human  
252 Trafficking Hotline or to a local law enforcement agency.

253 3. By January 1, 2021, post in a conspicuous place in the  
254 establishment which is accessible to employees a sign with the  
255 relevant provisions of the reporting procedure provided for in  
256 subparagraph 2.

257 (b) The human trafficking awareness training required under  
258 subparagraph 1. must be submitted to and approved by the  
259 department before the training is provided to employees and must  
260 include the following:

261 1. The definition of human trafficking and the difference  
262 between the two forms of human trafficking: sex trafficking and  
263 labor trafficking.

264 2. Guidance specific to the massage establishment sector  
265 concerning how to identify individuals who may be victims of  
266 human trafficking.

267 3. Guidance concerning the role of the employees of a  
268 massage establishment in reporting and responding to suspected  
269 human trafficking.

270 (c) The board must take disciplinary action against a  
271 massage establishment that has operated or that is operating in  
272 violation of this section.



273 (d) This section does not establish a private cause of  
274 action. A massage establishment is not liable for any harm  
275 resulting from the failure of an employee to prevent, detect, or  
276 report suspected human trafficking if the massage establishment  
277 was in compliance with the requirements of this section at the  
278 time of such harm.

279 (14)-(13) This section does not apply to a physician  
280 licensed under chapter 458, chapter 459, or chapter 460 who  
281 employs a licensed massage therapist to perform massage on the  
282 physician's patients at the physician's place of practice. This  
283 subsection does not restrict investigations by the department  
284 for violations of chapter 456 or this chapter.

285 Section 3. Section 509.096, Florida Statutes, is created to  
286 read:

287 509.096 Human trafficking awareness training and policies  
288 for employees of public lodging establishments; enforcement.-

289 (1) A public lodging establishment shall:

290 (a) Provide training regarding human trafficking awareness  
291 to employees of the establishment who perform housekeeping  
292 duties in the rental units or who work at the front desk or  
293 reception area where guests ordinarily check-in or check-out.  
294 Such training must be provided to such employees within 6 months  
295 after their employment in that role, or by January 1, 2020,  
296 whichever occurs later. Proof of such employee training must be  
297 provided to the division upon request.

298 (b) By January 1, 2020, implement a procedure for the  
299 reporting of suspected human trafficking to the National Human  
300 Trafficking Hotline or to a local law enforcement agency.

301 (c) By January 1, 2020, post in a conspicuous place in the



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302 establishment which is accessible to employees a sign with the  
303 relevant provisions of the reporting procedure provided for in  
304 paragraph (b).

305 (2) The human trafficking awareness training required under  
306 paragraph (1) (a) must be submitted to and approved by the  
307 division before the training is provided to employees and must  
308 include all of the following:

309 (a) The definition of human trafficking and the difference  
310 between the two forms of human trafficking: sex trafficking and  
311 labor trafficking.

312 (b) Guidance specific to the public lodging sector  
313 concerning how to identify individuals who may be victims of  
314 human trafficking.

315 (c) Guidance concerning the role of the employees of a  
316 public lodging establishment in reporting and responding to  
317 suspected human trafficking.

318 (3) Pursuant to s. 509.261, the division must take  
319 disciplinary action against a public lodging establishment that  
320 has operated or that is operating in violation of this section.

321 (4) This section does not establish a private cause of  
322 action. A public lodging establishment is not liable for any  
323 harm resulting from the failure of an employee to prevent,  
324 detect, or report suspected human trafficking if the public  
325 lodging establishment was in compliance with the requirements of  
326 this section at the time of such harm.

327 Section 4. Effective October 1, 2019, subsection (5) of  
328 section 796.07, Florida Statutes, is amended, and subsection (2)  
329 of that section is republished, to read:

330 796.07 Prohibiting prostitution and related acts.—



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- 331 (2) It is unlawful:
- 332 (a) To own, establish, maintain, or operate any place,  
333 structure, building, or conveyance for the purpose of lewdness,  
334 assignation, or prostitution.
- 335 (b) To offer, or to offer or agree to secure, another for  
336 the purpose of prostitution or for any other lewd or indecent  
337 act.
- 338 (c) To receive, or to offer or agree to receive, any person  
339 into any place, structure, building, or conveyance for the  
340 purpose of prostitution, lewdness, or assignation, or to permit  
341 any person to remain there for such purpose.
- 342 (d) To direct, take, or transport, or to offer or agree to  
343 direct, take, or transport, any person to any place, structure,  
344 or building, or to any other person, with knowledge or  
345 reasonable cause to believe that the purpose of such directing,  
346 taking, or transporting is prostitution, lewdness, or  
347 assignation.
- 348 (e) For a person 18 years of age or older to offer to  
349 commit, or to commit, or to engage in, prostitution, lewdness,  
350 or assignation.
- 351 (f) To solicit, induce, entice, or procure another to  
352 commit prostitution, lewdness, or assignation.
- 353 (g) To reside in, enter, or remain in, any place,  
354 structure, or building, or to enter or remain in any conveyance,  
355 for the purpose of prostitution, lewdness, or assignation.
- 356 (h) To aid, abet, or participate in any of the acts or  
357 things enumerated in this subsection.
- 358 (i) To purchase the services of any person engaged in  
359 prostitution.



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360 (5) (a) A person who violates paragraph (2) (f) commits:  
361 1. A misdemeanor of the first degree for a first violation,  
362 punishable as provided in s. 775.082 or s. 775.083.  
363 2. A felony of the third degree for a second violation,  
364 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
365 3. A felony of the second degree for a third or subsequent  
366 violation, punishable as provided in s. 775.082, s. 775.083, or  
367 s. 775.084.  
368 (b) In addition to any other penalty imposed, the court  
369 shall order a person convicted of a violation of paragraph  
370 (2) (f) to:  
371 1. Perform 100 hours of community service; and  
372 2. Pay for and attend an educational program about the  
373 negative effects of prostitution and human trafficking, such as  
374 a sexual violence prevention education program, including such  
375 programs offered by faith-based providers, if such programs  
376 exist in the judicial circuit in which the offender is  
377 sentenced.  
378 (c) In addition to any other penalty imposed, the court  
379 shall sentence a person convicted of a second or subsequent  
380 violation of paragraph (2) (f) to a minimum mandatory period of  
381 incarceration of 10 days.  
382 (d) 1. If a person who violates paragraph (2) (f) uses a  
383 vehicle in the course of the violation, the judge, upon the  
384 person's conviction, may issue an order for the impoundment or  
385 immobilization of the vehicle for a period of up to 60 days. The  
386 order of impoundment or immobilization must include the names  
387 and telephone numbers of all immobilization agencies meeting all  
388 of the conditions of s. 316.193(13). Within 7 business days





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389 after the date that the court issues the order of impoundment or  
390 immobilization, the clerk of the court must send notice by  
391 certified mail, return receipt requested, to the registered  
392 owner of the vehicle, if the registered owner is a person other  
393 than the defendant, and to each person of record claiming a lien  
394 against the vehicle.

395 2. The owner of the vehicle may request the court to  
396 dismiss the order. The court must dismiss the order, and the  
397 owner of the vehicle will incur no costs, if the owner of the  
398 vehicle alleges and the court finds to be true any of the  
399 following:

400 a. The owner's family has no other private or public means  
401 of transportation;

402 b. The vehicle was stolen at the time of the offense;

403 c. The owner purchased the vehicle after the offense was  
404 committed, and the sale was not made to circumvent the order and  
405 allow the defendant continued access to the vehicle; or

406 d. The vehicle is owned by the defendant but is operated  
407 solely by employees of the defendant or employees of a business  
408 owned by the defendant.

409 3. If the court denies the request to dismiss the order,  
410 the petitioner may request an evidentiary hearing. If, at the  
411 evidentiary hearing, the court finds to be true any of the  
412 circumstances described in sub-subparagraphs (d)2.a.-d., the  
413 court must dismiss the order and the owner of the vehicle will  
414 incur no costs.

415 (e) The criminal history record of a person who violates  
416 paragraph (2)(f) and who is found guilty as a result of a trial  
417 or who enters a plea of guilty or nolo contendere, regardless of



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418 whether adjudication is withheld, must be added to the  
419 Soliciting for Prostitution Public Database established under s.  
420 943.0433. Upon the person's conviction, the clerk of the court  
421 shall forward the criminal history record of the convicted  
422 person to the Department of Law Enforcement for inclusion in the  
423 database.

424 Section 5. Effective October 1, 2019, section 943.0433,  
425 Florida Statutes, is created to read:

426 943.0433 Soliciting for Prostitution Public Database.—

427 (1) The department shall create and administer the  
428 Soliciting for Prostitution Public Database. The clerk of the  
429 court shall forward to the department the criminal history  
430 record of a person in accordance with s. 796.07(5)(e), and the  
431 department must add the criminal history record to the database.

432 (2)(a) The department shall automatically remove the  
433 criminal history record of a person on the database for a first  
434 violation of s. 796.07(2)(f) if, after 5 years after the  
435 person's conviction, such person has not again violated s.  
436 796.07(2)(f) and has not committed any other offense within that  
437 time that would constitute a sexual offense, including, but not  
438 limited to, human trafficking or an offense that would require  
439 registration as a sexual offender.

440 (b) The department may not remove a criminal history record  
441 from the database if a person violates s. 796.07(2)(f) a second  
442 or subsequent time.

443 (3) The database must include all of the following on each  
444 offender:

445 (a) His or her full legal name.

446 (b) His or her last known address.



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- 447       (c) A color photograph of him or her.
- 448       (d) The offense for which he or she was convicted.
- 449       (4) The department shall adopt rules to administer this
- 450 section.

451           Section 6. Subsection (3) of section 943.0583, Florida  
452 Statutes, is amended to read:

453           943.0583 Human trafficking victim expunction.—

454           (3) A person who is a victim of human trafficking may  
455 petition for the expunction of a criminal history record  
456 resulting from the arrest or filing of charges for an offense  
457 committed or reported to have been committed while the person  
458 was a victim of human trafficking, which offense was committed  
459 or reported to have been committed as a part of the human  
460 trafficking scheme of which the person was a victim or at the  
461 direction of an operator of the scheme, including, but not  
462 limited to, violations under chapters 796 and 847, without  
463 regard to the disposition of the arrest or of any charges.  
464 However, this section does not apply to any offense listed in s.  
465 775.084(1)(b)1., except for kidnapping. Determination of the  
466 petition under this section should be by a preponderance of the  
467 evidence. A conviction expunged under this section is deemed to  
468 have been vacated due to a substantive defect in the underlying  
469 criminal proceedings. If a person is adjudicated not guilty by  
470 reason of insanity or is found to be incompetent to stand trial  
471 for any such charge, the expunction of the criminal history  
472 record may not prevent the entry of the judgment or finding in  
473 state and national databases for use in determining eligibility  
474 to purchase or possess a firearm or to carry a concealed  
475 firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s.



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476 922(t), nor shall it prevent any governmental agency that is  
477 authorized by state or federal law to determine eligibility to  
478 purchase or possess a firearm or to carry a concealed firearm  
479 from accessing or using the record of the judgment or finding in  
480 the course of such agency's official duties.

481 Section 7. Section 943.17297, Florida Statutes, is created  
482 to read:

483 943.17297 Training in identifying and investigating human  
484 trafficking.—Each certified law enforcement officer must  
485 successfully complete four hours of training on identifying and  
486 investigating human trafficking as a part of the basic recruit  
487 training of the officer required in s. 943.13(9) or continuing  
488 education under s. 943.135(1) before July 1, 2022. The training  
489 must be developed by the commission in consultation with the  
490 Department of Children and Families and the Statewide Council on  
491 Human Trafficking. If an officer fails to complete the required  
492 training, his or her certification shall be inactive until the  
493 employing agency notifies the commission that the officer has  
494 completed the training.

495 Section 8. Except as otherwise expressly provided in this  
496 act, this act shall take effect July 1, 2019.

497  
498 ===== T I T L E A M E N D M E N T =====

499 And the title is amended as follows:

500 Delete everything before the enacting clause  
501 and insert:

502 A bill to be entitled  
503 An act relating to human trafficking; creating s.  
504 16.618, F.S.; requiring the Department of Legal



505 Affairs to establish a certain direct-support  
506 organization; providing requirements for the direct-  
507 support organization; requiring the direct-support  
508 organization to operate under written contract with  
509 the department; providing contractual requirements;  
510 providing for the membership of and the appointment of  
511 directors to the board of directors of the direct-  
512 support organization; requiring the direct-support  
513 organization, in conjunction with the Statewide  
514 Council on Human Trafficking, to form certain  
515 partnerships for specified purposes; authorizing the  
516 department to allow appropriate use of department  
517 property, facilities, and personnel by the direct-  
518 support organization; providing requirements and  
519 conditions for such use of department property,  
520 facilities, and personnel by the direct-support  
521 organization; authorizing the direct-support  
522 organization to engage in certain activities for the  
523 direct or indirect benefit of the council; providing  
524 for moneys received by the direct-support  
525 organization; prohibiting certain persons and  
526 employees from receiving specified benefits as they  
527 relate to the council or the direct-support  
528 organization; authorizing the department to terminate  
529 its agreement with the direct-support organization if  
530 the department determines that the direct-support  
531 organization does not meet specified objectives;  
532 providing for future review and repeal by the  
533 Legislature; amending s. 480.043, F.S.; requiring a



534           message establishment to train certain employees and  
535           create certain policies relating to human trafficking  
536           by a specified date; providing requirements for such  
537           training; requiring the Board of Massage Therapy to  
538           take disciplinary action against a massage  
539           establishment for failure to comply with such  
540           requirements; providing that this section does not  
541           establish a private cause of action against a massage  
542           establishment under certain circumstances; creating s.  
543           509.096, F.S.; requiring a public lodging  
544           establishment to train certain employees and create  
545           certain policies relating to human trafficking by a  
546           specified date; providing requirements for such  
547           training; requiring the Division of Hotels and  
548           Restaurants of the Department of Business and  
549           Professional Regulation to take disciplinary action  
550           against a public lodging establishment for failure to  
551           comply with such requirements; providing that this  
552           section does not establish a private cause of action  
553           against a public lodging establishment under certain  
554           circumstances; amending s. 796.07, F.S.; requiring  
555           that the criminal history record of a person who is  
556           convicted of, or who enters a plea of guilty or nolo  
557           contendere to, soliciting, inducing, enticing, or  
558           procuring another to commit prostitution, lewdness, or  
559           assignation be added to the Soliciting for  
560           Prostitution Public Database; requiring the clerk of  
561           the court to forward the criminal history record of  
562           such persons to the Department of Law Enforcement for



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563 certain purposes; creating s. 943.0433, F.S.;

564 requiring the Department of Law Enforcement to create

565 and administer the Soliciting for Prostitution Public

566 Database; requiring the department to add certain

567 criminal history records to the database; requiring

568 the department to automatically remove certain

569 criminal history records from the database under

570 certain circumstances; prohibiting the department from

571 removing certain criminal history records from the

572 database under certain circumstances; requiring the

573 database to include specified information on

574 offenders; requiring the department to adopt rules;

575 amending s. 943.0583, F.S.; creating an exception to a

576 prohibition that bars certain victims of human

577 trafficking from petitioning for the expunction of a

578 criminal history record for offenses committed while

579 the person was a victim of human trafficking as part

580 of the human trafficking scheme or at the direction of

581 an operator of the scheme; creating s. 943.17297,

582 F.S.; requiring each certified law enforcement officer

583 to successfully complete training on identifying and

584 investigating human trafficking before a certain date;

585 requiring that the training be developed in

586 consultation with specified entities; specifying that

587 an officer's certification shall be inactive if he or

588 she fails to complete the required training until the

589 employing agency notifies the Criminal Justice

590 Standards and Training Commission that the officer has

591 completed the training; providing effective dates.



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WHEREAS, the state of Florida is ranked third nationally for human trafficking abuses, and the Legislature recognizes that the crime of human trafficking is a gross violation of human rights, and has taken measures to raise awareness of the practices of human sex trafficking and of labor trafficking of children and adults in this state, and

WHEREAS, the Legislature deems it critical to the health, safety, and welfare of the people in this state to prevent and deter human trafficking networks, and persons who would aid and abet these networks, from operating in this state, and

WHEREAS, repeat offenses to aid and abet traffickers by way of recruitment or financial support, and clients of human trafficking networks who use physical violence, are a particularly extreme threat to public safety, and

WHEREAS, repeat offenders are extremely likely to use violence and to repeat their offenses, and to commit many offenses with many victims, many of whom are never given justice, and these offenders are only prosecuted for a small fraction of their crimes, and

WHEREAS, traffickers and clients of human trafficking networks often use hotels, motels, public lodging establishments, massage establishments, spas, or property rental sharing sites to acquire facilities wherein men, women, and children are coerced into performing sexual acts, which places the employees of these establishments in direct and frequent contact with victims of human trafficking, and

WHEREAS, this state is in critical need of a coordinated and collaborative human trafficking law enforcement response to





237898

621 prepare for future large-scale events taking place in this  
622 state, and the Legislature finds that a statewide effort focused  
623 on law enforcement training, detection, and enforcement, with  
624 additional focus on the safe rehabilitation of survivors, will  
625 benefit such critical need, and

626 WHEREAS, research from 2011 has demonstrated that a  
627 majority of human trafficker's clients are not interviewed by  
628 law enforcement, despite having extensive knowledge of the  
629 traffickers and the traffickers' practices, and are even used as  
630 recruiters for traffickers, and

631 WHEREAS, human trafficker's clients who were interviewed in  
632 the same 2011 research stated that they would think twice about  
633 purchasing sex from a victim of human trafficking if they were  
634 named on a public database, and

635 WHEREAS, client and trafficker anonymity has allowed for  
636 trafficking networks to continue in the shadows, and the  
637 publication of client and trafficker identities would protect  
638 the public from potential harm and protect victims of  
639 trafficking from future harm, NOW, THEREFORE,

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19  
Meeting Date

SB 540  
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Karen Mann

Job Title Retired Teacher

Address 218 Ash Ave

Phone 321-412-4762

Street Melbourne Beach, FL 32951  
City State Zip

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida NOW, Nat'l Org. for Women

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 54D

Topic Human Trafficking Amendment Barcode (if applicable)

Name Patricia Dewitt

Job Title Dir. Public Policy ADV of FL

Address 2207 Ivygair Dr E Phone 706-766-5068

Street Jacksonville State FL Zip 32225 Email aa.w.dewitt@gmail.com

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against (The Chair will read this information into the record.)

Representing AAW of Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19

540

Meeting Date

Bill Number (if applicable)

Topic HUMAN TRAFFICKING

Amendment Barcode (if applicable)

Name SUSAN BAYLEY

Job Title Retired

Address 1317 Dovercourt Lane

Phone 386-671-1560

Street ORMOND BEACH FL 32174

City

State

Zip

Email ansambayley@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-12-19

540

Meeting Date

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Mary Ann Sines

Job Title

Address 2711 N. Halifax Ave. # 387

Phone 386-7956353

Street

Daytona Beach

City

FL

State

32118

Zip

Email

MaryAnn.Sines@sen.com

Speaking:

For

Against

Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing AHW American Assn of University Women - Daytona Beach

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19  
Meeting Date

SB 540  
Bill Number (if applicable)

Topic Human Trafficking Amendment Barcode (if applicable)

Name Laura Fausone

Job Title VP - Florist Nat'l Organization for Women

Address 180 Atlantic Ave Phone 321 913 5546

Street Franklin Ave City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Email laura@fausoneforwomen.com

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL National Organizer for Women  
Appearing at request of Chair:  Yes  No  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 540

Topic Human Trafficking Training

Amendment Barcode (if applicable)

Name Michael "Mick" McKeon

Job Title CEO of Renovis

Address 763 Felton Ave

Phone 215-776-6910

Street Falls Church State VA Zip 22046

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/21/19

Bill Number (if applicable) 540

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Terry Sanders

Job Title President, Florida NOW

Address 181 Sand Dollar Rd.

Phone 321-615-1334

Street Federalistic, FL 32903

Email president@flnow.org

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida NOW

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/2/19

Bill Number (if applicable) SB 540

Topic SB 540

Amendment Barcode (if applicable) \_\_\_\_\_

Name Kristen Cain

Job Title Advocate

Address 1010 Lotus Parkway B011011

Phone 877-776-2054 x257

City Altamonte Springs State FL Zip 32714

Email EmpoweredSWOPUSA.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SWOP Benjamin Bass

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 03/12/19

Bill Number (if applicable) SB 540

Topic SB 540

Amendment Barcode (if applicable) \_\_\_\_\_

Name Gabrielle Monroe

Job Title Advocate / Professional Sex Worker

Address 1060 Lotus Pkwy Box 1011

Phone 877-776-2004

Street A Hamante Springs City FL State FL Zip 32714

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing SUCCR Behind Bars

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19  
Meeting Date

SB 546  
Bill Number (if applicable)

Topic "end demand" approach - public database  
Amendment Barcode (if applicable)

Name Diana Shanks

Job Title Higher Education (College) professional

Address 1060 Lotus Parkway #1011  
Street Phone 727-569-6729

Altamonte Springs FL 32714  
City State Zip Email tampabay@scopusa.org

Speaking:  For  Against  Information  
Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Sex Workers Solidarity Network

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19  
Meeting Date

SB 540  
Bill Number (if applicable)

Topic Soliciting for Proposition Public Database

Amendment Barcode (if applicable)

Name Christine Hanavan, MSW

Job Title Community Organizer

Address 208 Arrowhead Ct

Phone 1877-776-2004 ext 106

Street Winter Springs State FL Zip 32708

Email christine@swopbehindbars.org

Speaking:  For  Against  Information  In Support  Against  
(The Chair will read this information into the record.)

Representing SWOP Behind Bars and SWOP Orlando

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) SB 540

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name Dr. Jill McCracken

Job Title Professor i Co-Founder + Co-Director

Address 2815 Edwards Ave S

Phone 1-877-776-2004 ext 105

Street St. Petersburg State FL Zip 33701

Email jill@swopbehindbars.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SWOP Behind Bars and SWOP Tampa Bay

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/2019

Bill Number (if applicable) OS/SB 540

Topic HUMAN TRAFFICKING

Amendment Barcode (if applicable)

Name CHRISTINE PHYDOL EBY

Job Title PROFESSIONAL SEX WORKER / HUMAN TRAFFICKING SURVIVOR

Address 3201 E COLONIAL DR

Phone

Street ORLANDO State FL Zip 32803

Email PERSONALSERVICE@SAFE OFFICE.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MYSELF & CONSENSUAL SEX WORKERS

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date March 12/19

Bill Number (if applicable) S 540

Amendment Barcode (if applicable) \_\_\_\_\_

Topic Human Trafficking

Name Patricia Ross

Job Title President AAUW Florida

Address 1900 N. Atlantic #602

Street Daytona Beach State FL Zip 32218

Phone 386-252-1659

Email PAROSS@AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing American Association of University Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 12/15/14

Bill Number (if applicable) 547

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Dr. K. Lee-Smith

Job Title

Address P.O. Box 49852

Phone 813-361-6334

City Campana State FL Zip 33646

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing American Association of Divorced Women (AAWD)

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3-12-19

Bill Number (if applicable) 540

Topic 540 Staffing

Amendment Barcode (if applicable)

Name Jane Sterling

Job Title Co-Director Program - AAUW - Venice Branch

Address 4328 Cypress Venetia Blvd

Phone

Street Venice, FL 34243

City State Zip Email myfgammy@gmail.com

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing AAUW

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 540

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Alan Willett

Job Title Corporal

Address 8750 Carter Dr

Phone 724-277-6226

Street New Port Kaley State FL Zip 34653

Email awillett@portkaley.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Port Kaley's Office

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3-12-2019

Bill Number (if applicable) 540

Topic 540 Trafficking

Amendment Barcode (if applicable)

Name PAULA DUKESKI

Job Title V.P. AAVW VENDOR BRANCH

Address 217 Montellana DR

Phone

City NOKOMIS State FL Zip 34275

Email pmcfom@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing ~~AAVW~~ AAVW VENDOR BRANCH

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

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# THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

5/12/18

Bill Number (if applicable)

SB 540

Amendment Barcode (if applicable)

Topic

Human Trafficking Prostitution Registry

Name

Elizabeth Christensen

Job Title

CEO Registry Reform Org

Address

Street

3305 Seminole Lane

Phone

228-234-1495

City

Marianna FL 32448

State

Zip

Email

itsbethc@aol.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Florida Action Committee for Registry Reform Org.

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3-12-19

Meeting Date

Bill Number (if applicable) SR 540

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Jordan Connors

Job Title

Address 701 Stanley Drive

Street

City Remondina Beach Fl 32034

City

State

Zip

Phone 904 206 1604

Email jordan.connors@flsen.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Place of Hope

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3/12/19

Bill Number (if applicable) 540

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 230 S. Adams St.

Phone 224-2250

Street Tallahassee State FL Zip 32301

Email spadgett@fla.com

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

3-12-19

Bill Number (if applicable)

540

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Steve Geller

Job Title ~~Sen~~ Broward County Commissioner

Address 110 East Broward Blvd Ft Lauderdale, FL 33309

Phone 954-315-3926

City Ft. Lauderdale, FL State FL Zip 33309

Email Steve.Geller@wfla.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/12/19

Meeting Date

540

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Chief Gary Hester

Job Title Government Affairs

Address 2636 Mitcham Drive

Street

Phone 850-219-3631

Tallahassee

FL

32308

City

State

Zip

Email ghester@fpca.com

Speaking:  For  Against

Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

Bill Number (if applicable) CS/SB570

Topic \_\_\_\_\_

Amendment Barcode (if applicable) \_\_\_\_\_

Name SUSAN STARKER

Job Title COUNCIL MEMBER TOWARD PAVE

Address 6591 Orange Dr. Phone 954 8820227

City Davie State FL Zip 33328 Email susan.starker@daivie-fl.gov

Speaking:  For  Against  Information  Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

By the Committee on Criminal Justice; and Senator Book

591-02472A-19

2019540c1

1 A bill to be entitled  
 2 An act relating to human trafficking; creating s.  
 3 509.096, F.S.; requiring a public lodging  
 4 establishment to train certain employees and create  
 5 certain policies relating to human trafficking by a  
 6 specified date; providing requirements for such  
 7 training; permitting the Division of Hotels and  
 8 Restaurants of the Department of Business and  
 9 Professional Regulation to take disciplinary action  
 10 against a public lodging establishment for failure to  
 11 comply with such requirements; providing that this  
 12 section does not establish a private cause of action  
 13 against a public lodging establishment; creating s.  
 14 787.08, F.S.; requiring the Department of Children and  
 15 Families, in consultation with the Department of Law  
 16 Enforcement and the Attorney General, to establish a  
 17 certain direct-support organization; providing  
 18 requirements for the direct-support organization;  
 19 requiring the direct-support organization to focus on  
 20 human trafficking issues by forming strategic  
 21 partnerships and serving as a liaison with specified  
 22 public and private sector partners; requiring the  
 23 direct-support organization to assist agencies in  
 24 creating training on certain topics; requiring the  
 25 direct-support organization to provide resources for  
 26 such training and strategize the funding of inpatient  
 27 care for victims of human trafficking in treatment  
 28 centers throughout the state; requiring the direct-  
 29 support organization to operate under a written

Page 1 of 12

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

591-02472A-19

2019540c1

30 contract with the Department of Children and Families;  
 31 providing contractual requirements; providing for the  
 32 membership of and the appointment of directors to the  
 33 board of the direct-support organization; providing  
 34 for future review and repeal by the Legislature;  
 35 amending s. 796.07, F.S.; requiring that the criminal  
 36 history record of a person who is convicted of, or  
 37 enters a plea of guilty or nolo contendere to,  
 38 soliciting, inducing, enticing, or procuring another  
 39 to commit prostitution, lewdness, or assignation be  
 40 added to the Soliciting for Prostitution Registry;  
 41 requiring the clerk of the court to forward the  
 42 criminal history record of such persons to the  
 43 Department of Law Enforcement for certain purposes;  
 44 creating s. 943.0433, F.S.; requiring the Department  
 45 of Law Enforcement to create and administer the  
 46 Soliciting for Prostitution Registry; requiring the  
 47 department to add certain criminal history records to  
 48 the registry; requiring the department to adopt rules;  
 49 amending s. 943.0583, F.S.; creating an exception to a  
 50 prohibition that bars certain victims of human  
 51 trafficking from petitioning for the expunction of a  
 52 criminal history record for offenses committed while  
 53 the person was a victim of human trafficking as part  
 54 of the human trafficking scheme or at the direction of  
 55 an operator of the scheme; creating s. 943.17297,  
 56 F.S.; requiring each certified law enforcement officer  
 57 to successfully complete training on identifying and  
 58 investigating human trafficking before a certain date;

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59 requiring that the training be developed in  
 60 consultation with specified entities; specifying that  
 61 an officer's certification shall be inactive if he or  
 62 she fails to complete the required training until the  
 63 employing agency notifies the Criminal Justice  
 64 Standards and Training Commission that the officer has  
 65 completed the training; providing an effective date.

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

68 Section 1. Section 509.096, Florida Statutes, is created to  
 69 read:

70 509.096 Human trafficking awareness training and policies  
 71 for employees of public lodging establishments; enforcement.-

72 (1) A public lodging establishment shall:

73 (a) Provide training regarding human trafficking awareness  
 74 to employees of the establishment who perform housekeeping  
 75 duties in the rental units or who work at the front desk or  
 76 reception area where guests ordinarily check-in or check-out.  
 77 Such training shall be provided within 6 months after employment  
 78 in that role, or by January 1, 2021, whichever occurs later.  
 79 Proof of such employee training shall be provided to the  
 80 division upon request.

81 (b) By January 1, 2021, implement a procedure for the  
 82 reporting of suspected human trafficking to the National Human  
 83 Trafficking Hotline or to a local law enforcement agency.

84 (c) By January 1, 2021, post in a conspicuous place in the  
 85 establishment accessible to employees a sign with the relevant  
 86 provisions of the reporting procedure provided for in paragraph  
 87

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88 (b).

89 (2) The human trafficking awareness training required in  
 90 paragraph (1) (a) shall be submitted to and approved by the  
 91 division before the training is provided to employees and shall  
 92 include the following:

93 (a) The definition of human trafficking and the difference  
 94 between the two forms of human trafficking: sex trafficking and  
 95 labor trafficking.

96 (b) Guidance specific to the public lodging sector on how  
 97 to identify individuals who may be victims of human trafficking.

98 (c) Guidance on the role of the employees of a public  
 99 lodging establishment in reporting and responding to suspected  
 100 human trafficking.

101 (3) Pursuant to s. 509.261, the division may take  
 102 disciplinary action against a public lodging establishment that  
 103 has operated or is operating in violation of this section.

104 (4) This section does not establish a private cause of  
 105 action. A public lodging establishment shall not be liable for  
 106 any harm resulting from the failure of an employee to prevent,  
 107 detect, or report suspected human trafficking if the public  
 108 lodging establishment was in compliance with the requirements of  
 109 this section at the time of such harm.

110 Section 2. Section 787.08, Florida Statutes, is created to  
 111 read:

112 787.08 Direct-support organization.-

113 (1) The Department of Children and Families, in  
 114 consultation with the Department of Law Enforcement and the  
 115 Attorney General, shall establish a direct-support organization  
 116 that is:

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117 (a) A Florida corporation, not for profit, incorporated  
 118 under chapter 617, and approved by the Secretary of State.  
 119 (b) Organized and operated exclusively to solicit funds;  
 120 request and receive grants, gifts, and bequests of money;  
 121 acquire, receive, hold, invest, and administer, in its own name,  
 122 property and funds; and make expenditures in support of the  
 123 purposes specified in this section.  
 124 (c) Certified by the department, after review, to be  
 125 operating in a manner consistent with the purposes of the  
 126 organization and in the best interests of the state.  
 127 (2) The direct-support organization shall focus on human  
 128 trafficking issues within the state by forming strategic  
 129 partnerships to foster the development of community and private  
 130 sector resources and serving as a liaison with state agencies,  
 131 other state governments, and the public and private sectors.  
 132 Additionally, the direct-support organization shall assist  
 133 agencies in creating training on the detection of human  
 134 trafficking and the best practices of intervention and treatment  
 135 for survivors of human trafficking. The direct-support  
 136 organization shall also provide resources for such training, and  
 137 strategize the funding of inpatient care for victims of human  
 138 trafficking in treatment centers throughout the state.  
 139 (3) The direct-support organization shall operate under  
 140 written contract with the Department of Children and Families.  
 141 The contract must provide for:  
 142 (a) Approval of the articles of incorporation and bylaws of  
 143 the direct-support organization by the department.  
 144 (b) Submission of an annual budget for approval by the  
 145 department.

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146 (c) Annual certification by the department that the direct-  
 147 support organization is complying with the terms of the contract  
 148 and operating in a manner consistent with the purposes of the  
 149 organization and in the best interests of the state.  
 150 (d) Reversion to the Florida Council Against Sexual  
 151 Violence of moneys and property held in trust by the direct-  
 152 support organization to provide services for victims of sexual  
 153 violence if the direct-support organization is no longer  
 154 approved to operate or ceases to exist.  
 155 (e) Disclosure of the material provisions of the contract  
 156 and the distinction between the board of directors and the  
 157 direct-support organization to donors of gifts, contributions,  
 158 or bequests, which disclosures must be included in all  
 159 promotional and fundraising publications.  
 160 (f) An annual financial audit in accordance with s.  
 161 215.981.  
 162 (g) Establishment of the fiscal year of the direct-support  
 163 organization as beginning on July 1 of each year and ending on  
 164 June 30 of the following year.  
 165 (h) Appointment of the board of directors, pursuant to this  
 166 section.  
 167 (i) Authority of the board of directors of the direct-  
 168 support organization to hire an executive director.  
 169 (4) The board of directors of the direct-support  
 170 organization consists of 13 members. Each member of the board of  
 171 directors must be appointed to a 4-year term; however, for the  
 172 purpose of providing staggered terms, the Speaker of the House  
 173 of Representatives and the President of the Senate shall each  
 174 initially appoint two members to serve a 2-year term, and the

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175 executive director of the Department of Law Enforcement and the  
 176 Attorney General shall each initially appoint one member to  
 177 serve a 2-year term. All subsequent appointments must be for 4-  
 178 year terms. Any vacancy that occurs must be filled in the same  
 179 manner as the original appointment for the unexpired term of  
 180 that seat. The board of directors is appointed as follows:

181 (a) Two members with a law enforcement background who have  
 182 knowledge in the area of human trafficking, appointed by the  
 183 executive director of the Department of Law Enforcement.

184 (b) Three members appointed by the Attorney General.

185 (c) Four members appointed by the Speaker of the House of  
 186 Representatives.

187 (d) Four members appointed by the President of the Senate.

188 (5) This section is repealed October 1, 2024, unless  
 189 reviewed and saved from repeal by the Legislature.

190 Section 3. Subsection (5) of section 796.07, Florida  
 191 Statutes, is amended, and subsection (2) of that section is  
 192 republished, to read:

193 796.07 Prohibiting prostitution and related acts.—

194 (2) It is unlawful:

195 (a) To own, establish, maintain, or operate any place,  
 196 structure, building, or conveyance for the purpose of lewdness,  
 197 assignation, or prostitution.

198 (b) To offer, or to offer or agree to secure, another for  
 199 the purpose of prostitution or for any other lewd or indecent  
 200 act.

201 (c) To receive, or to offer or agree to receive, any person  
 202 into any place, structure, building, or conveyance for the  
 203 purpose of prostitution, lewdness, or assignation, or to permit

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204 any person to remain there for such purpose.

205 (d) To direct, take, or transport, or to offer or agree to  
 206 direct, take, or transport, any person to any place, structure,  
 207 or building, or to any other person, with knowledge or  
 208 reasonable cause to believe that the purpose of such directing,  
 209 taking, or transporting is prostitution, lewdness, or  
 210 assignation.

211 (e) For a person 18 years of age or older to offer to  
 212 commit, or to commit, or to engage in, prostitution, lewdness,  
 213 or assignation.

214 (f) To solicit, induce, entice, or procure another to  
 215 commit prostitution, lewdness, or assignation.

216 (g) To reside in, enter, or remain in, any place,  
 217 structure, or building, or to enter or remain in any conveyance,  
 218 for the purpose of prostitution, lewdness, or assignation.

219 (h) To aid, abet, or participate in any of the acts or  
 220 things enumerated in this subsection.

221 (i) To purchase the services of any person engaged in  
 222 prostitution.

223 (5) (a) A person who violates paragraph (2) (f) commits:

224 1. A misdemeanor of the first degree for a first violation,  
 225 punishable as provided in s. 775.082 or s. 775.083.

226 2. A felony of the third degree for a second violation,  
 227 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

228 3. A felony of the second degree for a third or subsequent  
 229 violation, punishable as provided in s. 775.082, s. 775.083, or  
 230 s. 775.084.

231 (b) In addition to any other penalty imposed, the court  
 232 shall order a person convicted of a violation of paragraph

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233 (2) (f) to:

- 234 1. Perform 100 hours of community service; and  
 235 2. Pay for and attend an educational program about the  
 236 negative effects of prostitution and human trafficking, such as  
 237 a sexual violence prevention education program, including such  
 238 programs offered by faith-based providers, if such programs  
 239 exist in the judicial circuit in which the offender is  
 240 sentenced.

241 (c) In addition to any other penalty imposed, the court  
 242 shall sentence a person convicted of a second or subsequent  
 243 violation of paragraph (2) (f) to a minimum mandatory period of  
 244 incarceration of 10 days.

245 (d)1. If a person who violates paragraph (2) (f) uses a  
 246 vehicle in the course of the violation, the judge, upon the  
 247 person's conviction, may issue an order for the impoundment or  
 248 immobilization of the vehicle for a period of up to 60 days. The  
 249 order of impoundment or immobilization must include the names  
 250 and telephone numbers of all immobilization agencies meeting all  
 251 of the conditions of s. 316.193(13). Within 7 business days  
 252 after the date that the court issues the order of impoundment or  
 253 immobilization, the clerk of the court must send notice by  
 254 certified mail, return receipt requested, to the registered  
 255 owner of the vehicle, if the registered owner is a person other  
 256 than the defendant, and to each person of record claiming a lien  
 257 against the vehicle.

258 2. The owner of the vehicle may request the court to  
 259 dismiss the order. The court must dismiss the order, and the  
 260 owner of the vehicle will incur no costs, if the owner of the  
 261 vehicle alleges and the court finds to be true any of the

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262 following:

- 263 a. The owner's family has no other private or public means  
 264 of transportation;  
 265 b. The vehicle was stolen at the time of the offense;  
 266 c. The owner purchased the vehicle after the offense was  
 267 committed, and the sale was not made to circumvent the order and  
 268 allow the defendant continued access to the vehicle; or  
 269 d. The vehicle is owned by the defendant but is operated  
 270 solely by employees of the defendant or employees of a business  
 271 owned by the defendant.

272 3. If the court denies the request to dismiss the order,  
 273 the petitioner may request an evidentiary hearing. If, at the  
 274 evidentiary hearing, the court finds to be true any of the  
 275 circumstances described in sub-subparagraphs (d)2.a.-d., the  
 276 court must dismiss the order and the owner of the vehicle will  
 277 incur no costs.

278 (e) The criminal history record of a person who violates  
 279 paragraph (2) (f) and is found guilty as a result of a trial or  
 280 enters a plea of guilty or nolo contendere, regardless of  
 281 whether adjudication is withheld, must be added to the  
 282 Soliciting for Prostitution Registry. Upon the person's  
 283 conviction, the clerk of the court shall forward the criminal  
 284 history record of the convicted person to the Department of Law  
 285 Enforcement for inclusion in the Soliciting for Prostitution  
 286 Registry.

287 Section 4. Section 943.0433, Florida Statutes, is created  
 288 to read:

289 943.0433 Soliciting for Prostitution Registry.—

290 (1) The department shall create and administer the

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291 Soliciting for Prostitution Registry. The clerk of the court  
 292 shall forward to the department the criminal history record of a  
 293 person in accordance with s. 796.07(5) (e), and the department  
 294 must add the criminal history record to the registry.

295 (2) The department shall adopt rules to administer this  
 296 section.

297 Section 5. Subsection (3) of section 943.0583, Florida  
 298 Statutes, is amended to read:

299 943.0583 Human trafficking victim expunction.—

300 (3) A person who is a victim of human trafficking may  
 301 petition for the expunction of a criminal history record  
 302 resulting from the arrest or filing of charges for an offense  
 303 committed or reported to have been committed while the person  
 304 was a victim of human trafficking, which offense was committed  
 305 or reported to have been committed as a part of the human  
 306 trafficking scheme of which the person was a victim or at the  
 307 direction of an operator of the scheme, including, but not  
 308 limited to, violations under chapters 796 and 847, without  
 309 regard to the disposition of the arrest or of any charges.  
 310 However, this section does not apply to any offense listed in s.  
 311 775.084(1) (b)1., except for kidnapping. Determination of the  
 312 petition under this section should be by a preponderance of the  
 313 evidence. A conviction expunged under this section is deemed to  
 314 have been vacated due to a substantive defect in the underlying  
 315 criminal proceedings. If a person is adjudicated not guilty by  
 316 reason of insanity or is found to be incompetent to stand trial  
 317 for any such charge, the expunction of the criminal history  
 318 record may not prevent the entry of the judgment or finding in  
 319 state and national databases for use in determining eligibility

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320 to purchase or possess a firearm or to carry a concealed  
 321 firearm, as authorized in s. 790.065(2) (a)4.c. and 18 U.S.C. s.  
 322 922(t), nor shall it prevent any governmental agency that is  
 323 authorized by state or federal law to determine eligibility to  
 324 purchase or possess a firearm or to carry a concealed firearm  
 325 from accessing or using the record of the judgment or finding in  
 326 the course of such agency's official duties.

327 Section 6. Section 943.17297, Florida Statutes, is created  
 328 to read:

329 943.17297 Training in identifying and investigating human  
 330 trafficking.—Each certified law enforcement officer must  
 331 successfully complete four hours of training on identifying and  
 332 investigating human trafficking as a part of the basic recruit  
 333 training of the officer required in s. 943.13(9) or continuing  
 334 education under s. 943.135(1) before July 1, 2022. The training  
 335 must be developed by the commission in consultation with the  
 336 Department of Children and Families and the Statewide Council on  
 337 Human Trafficking. If an officer fails to complete the required  
 338 training, his or her certification shall be inactive until the  
 339 employing agency notifies the commission that the officer has  
 340 completed the training.

341 Section 7. This act shall take effect July 1, 2019.





**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 568

INTRODUCER: Community Affairs Committee; and Senators Diaz and Pizzo

SUBJECT: Assessment of Property

DATE: March 12, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Fav/CS</b>
2.			FT	
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 568 authorizes a county or municipality to enter into restrictive covenant agreements with owners of property providing affordable housing. A restrictive covenant is deemed a land use regulation for the life of the covenant. A restrictive covenant would run with the land for at least 20 years, it is amendable, and it may include resale restrictions. By December 1 of each calendar year, a county or municipality must provide to the property appraiser a list of all recorded covenant agreements. The property appraiser is required to consider covenants within the context of factors used to arrive at just value.

The bill also allows, at the discretion of the property appraiser, for currently assessed property to qualify for the tangible personal property exemption without the filing of an initial return.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.<sup>1</sup> The property appraiser annually determines the assessed or “just value”<sup>2</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

### **Just Valuation**

Section 193.011, F.S., requires property appraisers to take into consideration the following factors in arriving at just valuation:

- Present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm’s length;
- Highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any executive order, ordinance, regulation, resolution, or proclamation or judicial limitation when it prohibits or restricts the development or improvement of property;
- Location of the property;
- Quantity or size of the property;
- Cost of the property and the present replacement value of any improvements thereon;
- Condition of the property;
- Income from the property; and
- Net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of sale.<sup>4</sup>

The Florida Supreme Court has held that “the appraisal of real estate is an art, not a science,”<sup>5</sup> and “the tax assessor is, of necessity, provided with great discretion due to the difficulty in fixing property values with certainty.”<sup>6</sup> In *Lanier v. Walt Disney World Company*, the court held that property appraisers are not obliged, under the law, to give each factor equal weight, provided each factor is first carefully considered and such weight is given to a factor as the facts justify.<sup>7</sup>

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<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> See ss 193.011(1)-193.011(8), F.S.

<sup>5</sup> *Powell v. Kelley*, 223 So. 2d 305, 309 (Fla. 1969).

<sup>6</sup> *District School Board of Lee County v. Askew*, 278 So. 2d 272, 276 (Fla. 1973).

<sup>7</sup> *Lanier v. Walt Disney World Company*, 316 So. 2d 59, 62 (Fla. 4 DCA 1975); *certiorari denied* 330 So. 2d 19 (Fla. Feb 03, 1976) (TABLE, NO. 47876)

While the just valuation standard generally requires the property appraiser to consider the highest and best use of property, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;<sup>8</sup> land used for conservation purposes;<sup>9</sup> historic properties when authorized by the county or municipality;<sup>10</sup> and certain working waterfront property.<sup>11</sup>

### **Affordable Housing in Florida**

As a public corporation<sup>12</sup> and the state's lead affordable housing entity, Florida Housing Finance Corporation (Florida Housing) utilizes federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist eligible homebuyers with financing and down payment assistance. To fulfill its mission, Florida Housing partners with a number of non-state entities including private lenders and investors, mortgage and bond insurers, federal agencies, for profit and nonprofit developers and property managers, and local governments.

Affordable housing for Florida Housing programs is defined in terms of the income of the household living in the housing. Housing is generally said to be affordable when a family is spending no more than 30 percent of its income on housing.<sup>13</sup> On the rental side, this includes utilities, while on the homeownership side, principal, interest, taxes, and insurance are all part of the equation.<sup>14</sup>

Resident eligibility for Florida Housing programs is governed by area median income (AMI) levels.<sup>15</sup> AMI eligibility levels for many programs is provided for in s. 420.0004, F.S., based on the county or group of counties in which a property is located as well as family size.<sup>16</sup> Generally speaking:

- Extremely low-income means total household income up to 30 percent of AMI;<sup>17</sup>
- Very low-income means total household income from 30.01 to 50 percent of AMI;<sup>18</sup>
- Low-income means total household income from 50.01 to 80 percent of AMI;<sup>19</sup> and
- Moderate income means total household income from 80.01 to 120 percent of AMI.<sup>20</sup>

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<sup>8</sup> FLA. CONST. art. VII, s. 4(a).

<sup>9</sup> FLA. CONST. art. VII, s. 4(b).

<sup>10</sup> FLA. CONST. art. VII, s. 4(e).

<sup>11</sup> FLA. CONST. art. VII, s. 4(j).

<sup>12</sup> Chapter 97-167, Laws of Fla., created Florida Housing as a public-private entity to replace the Florida Housing Finance Agency for the ostensible purposes of reducing bureaucracy and streamlining administrative processes.

<sup>13</sup> Florida Housing Finance Corporation, *Overview of Florida Housing Finance Corporation* (November 2018) (on file with the Senate Committee on Community Affairs).

<sup>14</sup> *Id.*

<sup>15</sup> AMI data is determined annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area.

<sup>16</sup> *See supra* note 13.

<sup>17</sup> *See* s. 420.0004(9), F.S.

<sup>18</sup> *See* s. 420.0004(17), F.S.

<sup>19</sup> *See* s. 420.0004(11), F.S.

<sup>20</sup> *See* s. 420.0004(12), F.S.

AMI affordability parameters for “workforce housing” in the state are set at slightly higher household income levels. As used in the Community Workforce Housing Innovation Pilot Program (CWHIP) under s. 420.5095, F.S., workforce housing means housing affordable to natural persons or families whose total annual household income does not exceed 140 percent of AMI, adjusted for household size, or 150 percent of AMI, adjusted for household size, in areas of critical state concern.<sup>21</sup> The critical state concern is designated under s. 380.05, F.S., for which the Legislature has declared its intent to provide affordable housing.<sup>22</sup>

Florida Housing’s programs feature a variety of financing resources to developers of affordable housing including federal Low Income Housing Tax Credits (LIHTC)<sup>23</sup> and loans provided through the State Apartment Incentive Loan (SAIL)<sup>24</sup> Program. To receive financing, developments must meet certain tests that restrict both the amount of rent charged to tenants and the income of eligible tenants.

### **Property Taxation of Affordable Housing**

The Florida Constitution provides no exception to the just value standard for assessment of property in affordable housing programs. Section 196.1978(1), F.S., provides a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not-for-profit corporation and provide affordable housing to serve extremely-low-income, very-low-income, or low-income persons.<sup>25</sup> Section 196.1978(2), F.S., provides that certain, qualifying multifamily affordable housing projects may receive a 50 percent discount from the amount of ad valorem tax owed after the 15<sup>th</sup> completed year of a recorded affordable housing agreement with Florida Housing.

In assessing property used for affordable housing in the LIHTC Program, s. 193.017, F.S., provides that:

- Neither the tax credits nor the financing generated by the tax credits may be considered income to the property;
- The actual rental income from rent-restricted units must be recognized by the property appraiser; and
- If an extended low-income housing agreement is filed in the official public records of the county, the agreement, and any recorded amendment or supplement, shall be considered a

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<sup>21</sup> Section 380.0552, F.S., designates the Florida Keys as an area of critical state concern, and includes legislative intent to provide affordable housing in close proximity to places of employment in the Florida Keys. Section 380.0555, F.S., provides a like designation and affordable housing legislative intent to the Apalachicola Bay Area.

<sup>22</sup> Section 420.5095(1)(a), F.S. Per the subsection, the intent to provide affordable housing also applies to areas that were designated as areas of critical state concern for at least 20 consecutive years prior to removal of the designation.

<sup>23</sup> See Tax Reform Act of 1986 (P.L. 99-514) and s. 420.5099, F.S. Federal tax credits are sold to investors to be used for a dollar-for-dollar reduction in their federal tax liability in exchange for equity to finance the acquisition, rehabilitation and/or new construction of affordable rental housing.

<sup>24</sup> Section 420.5087, F.S. SAIL provides gap financing to developers through non-amortizing, low-interest loans to leverage mortgage revenue bonds or federal LIHTC resources and obtain the full financing needed to construct affordable rental units for very low-income families.

<sup>25</sup> The not-for-profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code.

land-use regulation and a limitation on the highest and best use of the property during the term of the agreement, amendment, or supplement.<sup>26</sup>

### **Restrictive Covenants Running with the Land**

In general, a restrictive covenant is a written agreement that limits the use of property for specific purposes and regulates the structures that may be built on it.<sup>27</sup> A covenant is said to “run with the land” when not only the original parties or their representatives but each successive owner of the land will be entitled to its benefit or be liable (as the case may be) to its obligation.<sup>28</sup>

### **Florida Housing Land Use Restrictive Agreements<sup>29</sup>**

Rental property developers who receive financing from Florida Housing must agree to enter a Land Use Restrictive Agreement (LURA) which subjects the rental property to certain limitations in exchange for preferable financing. The land use restrictions are documented in the LURA and recorded in the public record. Recording the LURA means its restrictions run with the land, so that if the property is sold during the term of the agreement, then the buyer must also abide by the terms of the LURA.

### **Ad Valorem Exemption for Tangible Personal Property**

“Tangible personal property” means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>30</sup> All tangible personal property is subject to ad valorem taxation unless expressly exempted.<sup>31</sup> Household goods and personal effects,<sup>32</sup> items of inventory,<sup>33</sup> and up to \$25,000 of assessed value for each tangible personal property tax return<sup>34</sup> are exempt from ad valorem taxation.

Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.<sup>35</sup> Property owners who lease, lend, or rent property must also file a return. Each tangible personal property

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<sup>26</sup> See ss. 420.5093(5)-(6) and 420.5099(5)-(6), F.S., for conforming provisions of this guidance within programs for the allocation of State Housing Tax Credits and LIHTCs both of which are administered by Florida Housing. Section 193.018, F.S., on the assessment of community trust land for affordable housing provides that ground leases recorded in a county which restrict how parcels may be sold are deemed as land use regulations during the term of the lease.

<sup>27</sup> See BLACK’S LAW DICTIONARY (6<sup>th</sup> ed. 1990).

<sup>28</sup> *Id.* Section 193.505(1)(b), F.S., allows for a covenant “running with the land” for a term of not less than 10 years with the governing body of the county in which the property is located that the property shall not be used for any purpose inconsistent with historic preservation or the historic qualities of the property.

<sup>29</sup> See final bill analysis for HB 7109 (2017 Regular Session) by the Florida House of Representatives (Jun. 5, 2017) 20-21, available at <http://www.flsenate.gov/Session/Bill/2017/7109/Analyses/h7109z1.WMC.PDF> (last visited Mar. 1, 2019).

<sup>30</sup> s. 192.001(11)(d), F.S.

<sup>31</sup> s. 196.001(1), F.S.

<sup>32</sup> s. 196.181, F.S.

<sup>33</sup> s. 196.185, F.S.

<sup>34</sup> s. 196.183, F.S.

<sup>35</sup> s. 193.062, F.S.; see also DOR, Tangible Personal Property, <http://dor.myflorida.com/dor/property/tpp/> (last visited Feb. 15, 2018).

tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value.<sup>36</sup>

A single return must be filed for each site in the county where the owner of tangible personal property transacts business. Section 196.183(4), F.S., states that owners of property previously assessed by a property appraiser without a return being filed may qualify for the tangible personal property exemption without filing an initial return. This qualification is at the discretion of the property appraiser. The exemption for tangible personal property does not apply in any year a taxpayer fails to timely file a return that is not waived.<sup>37</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 193.019, F.S., to establish provisions for the assessment of property subject to certain restrictive covenants. A county or municipality is permitted to enter into an agreement with a property owner and file a restrictive covenant with the clerk of court running with the land for at least 20 years. The covenant will state that the property will be used to provide affordable housing to statutorily-defined low-income persons or workforce housing and may contain resale restrictions. A property owner and a county or municipality may amend the restrictive covenant if the amended covenant does not significantly change the intention of the original restrictive covenant.

The restrictive covenant must be recorded in the public records of the county and each county or municipality must provide the property appraiser with lists of all agreements entered into for the calendar year by December 1 of the year prior to the year in which each revised assessment takes effect.

In addition to the factors found in s. 193.011, F.S., for determining just value, property appraisers are to consider properties with a restrictive covenant in conformation with the covenant terms including any amendments or changes to a covenant. A restrictive covenant and any amendments are to be recorded in the official records of the county and is considered a land use regulation during the life of the covenant.

**Section 2** amends s. 196.183, F.S., to allow a property owner who fails to file an initial tangible personal property tax return and whose property is assessed by the property appraiser without a tax return to receive the \$25,000 exemption for *any year* of assessment, including the first year. The decision whether or not to apply an exemption when a tax return is not filed remains at the discretion of the property appraiser. Under current law, a property appraiser may not apply the exemption to the *first year* in which a tax return was due but not filed, but may apply it to subsequent years.

**Section 3** provides an effective date of July 1, 2019.

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<sup>36</sup> Fla. Const. art. VII, s. 3.

<sup>37</sup> Section 196.183(5), F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

The Revenue Estimating Conference has determined section 2 of the bill will reduce local property tax revenues by \$3.2 million beginning in Fiscal Year 2019-2020, with a \$3.2 million recurring, negative impact. The \$3.2 million reduction includes a school tax reduction of \$1.2 million and a non-school tax reduction of \$2 million. This estimate assumes that every property appraiser would choose to grant the exemption authorized in section 2 of the bill.<sup>38</sup>

## B. Private Sector Impact:

A property appraiser's consideration of an affordable housing restrictive covenant for just valuation purposes may work to limit such valuations for the property owners (Section 1). Certain filers for tangible personal property exemptions may qualify for an exemption for any year of assessment without filing an initial tax return (Section 2).

## C. Government Sector Impact:

The Department of Revenue would need to amend Florida Administrative Code Rules 12D-7.019 on tangible personal property exemptions and 12D-8.007 on preparation of assessment roles.

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<sup>38</sup> Office of Economic and Demographic Research, The Florida Legislature, Revenue Estimating Conference: Revenue Impact Results HB 443, 57-62 (Feb. 7, 2019) available at: [http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/Impact0215.pdf](http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/Impact0215.pdf) (last visiting March 8, 2019).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 193.019 of the Florida Statutes.

This bill amends section 196.183 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 12, 2019:**

- Specifies that a county or municipality may enter into the bill's restrictive covenants.
- Clarifies that restrictive covenants entered into are pursuant to the bill's newly created section of law.

- B. **Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2019	.	
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The Committee on Community Affairs (Diaz) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 193.019, Florida Statutes, is created to  
read:

193.019 Assessment of property with restrictive covenants.-  
(1) (a) A county or municipality may enter into an agreement  
with a property owner which authorizes the county or  
municipality to record with the clerk of court a restrictive



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11 covenant running with the land for a term of at least 20 years  
12 and stating that the property will be used to provide affordable  
13 housing to extremely-low-income, very-low-income, low-income, or  
14 moderate-income persons as defined in s. 420.0004 or provide  
15 workforce housing as defined in s. 420.5095(3). The covenant may  
16 contain resale restrictions.

17 (b) A property owner and the county or municipality may  
18 agree to amend, supplement, or attach an addendum to the  
19 recorded covenant, so long as the amendment, supplement, or  
20 addendum does not significantly alter the intent of the original  
21 covenant.

22 (2) Each restrictive covenant entered into pursuant to this  
23 section must be recorded in the public records of the county  
24 where the property is located. Each county or municipality that  
25 enters into an agreement with a property owner shall provide the  
26 property appraiser with a list of all agreements entered into  
27 for the calendar year no later than December 1 of the year  
28 before the year in which the revised assessment will take  
29 effect.

30 (3) In addition to considering the factors listed in s.  
31 193.011 in arriving at just value, the property appraiser shall  
32 consider each property with a restrictive covenant entered into  
33 pursuant to this section in accordance with the terms of the  
34 covenant, including any recorded amendment, supplement, or  
35 addendum to, or resale restriction in, the covenant.

36 (4) Each covenant entered into pursuant to this section,  
37 including any amendment, supplement, or addendum to the  
38 covenant, or resale restriction therein, which is recorded in  
39 the official public records of the county in which the land is



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40 located is deemed a land use regulation during the term of the  
41 covenant.

42 Section 2. Subsection (4) of section 196.183, Florida  
43 Statutes, is amended to read:

44 196.183 Exemption for tangible personal property.—

45 (4) Owners of property ~~previously~~ assessed by the property  
46 appraiser without a return being filed may, at the option of the  
47 property appraiser, qualify for the exemption under this section  
48 without filing an initial return.

49 Section 3. This act shall take effect July 1, 2019.

50

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

52 And the title is amended as follows:

53 Delete everything before the enacting clause  
54 and insert:

55 A bill to be entitled

56 An act relating to the assessment of property;  
57 creating s. 193.019, F.S.; authorizing counties and  
58 municipalities to enter into agreements with property  
59 owners to record certain restrictive covenants running  
60 with the land; authorizing property owners and the  
61 county or municipality to amend the covenant under  
62 certain circumstances; providing requirements for  
63 counties and municipalities in recording covenants and  
64 in providing property appraisers with a list of  
65 agreements; requiring property appraisers to consider  
66 the terms of covenants in arriving at just value;  
67 providing construction; amending s. 196.183, F.S.;

68 revising a condition under which a property owner may



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70  
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qualify for the tangible personal property exemption  
without filing an initial return; providing an  
effective date.



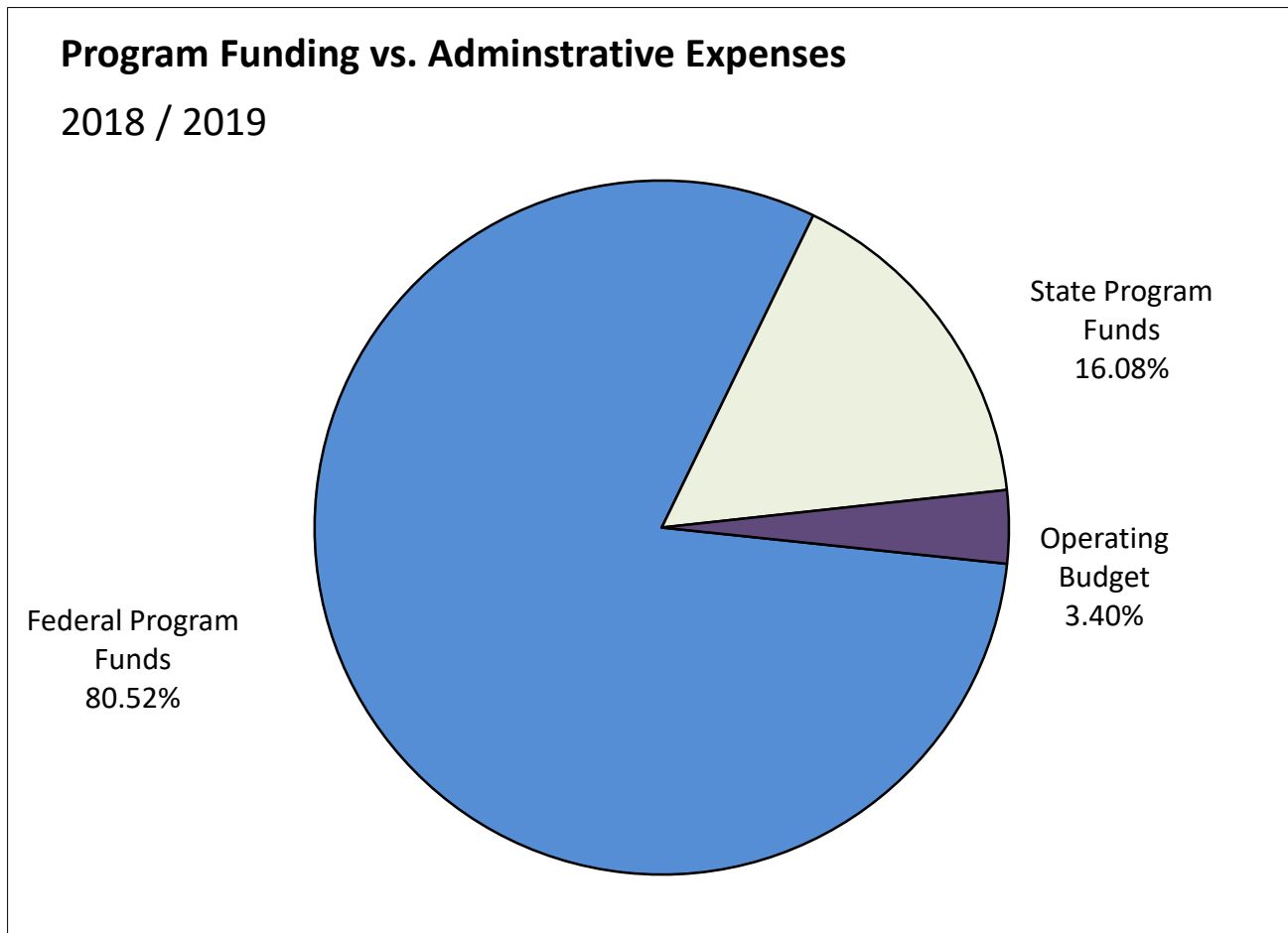
## Overview of Florida Housing Finance Corporation





## Quick Facts

- **Florida Housing Finance Corporation** (Florida Housing) is a public corporation of the State of Florida. As a financial institution, Florida Housing administers federal and state resources to provide low interest financing to homebuyers and to finance the development and preservation of affordable homeowner and rental housing.
- Florida Housing is not a department of the executive branch of state government but is an instrumentality of the State.
- Amount of state General Revenue appropriated to Florida Housing annually: None.
- Number of state employees working at Florida Housing: None.



## Introduction

Florida Housing Finance Corporation is a public corporation of the State of Florida and is considered to be a financial institution. Florida Housing administers federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assist homebuyers with financing and down payment assistance. When the 1980 Legislature created Florida Housing Finance Corporation's precursor, Florida Housing Finance Agency, the Agency was an arm of the Florida Department of Community Affairs

(DCA). In the 2011 legislative session, statutory changes moved Florida Housing's functional relationship from DCA to the Florida Department of Economic Opportunity (DEO). Florida Housing's purpose as outlined in Section 420.502, F.S., is to:

- Provide access to federal housing resources;
- Stabilize the flow of funds for affordable housing;
- Promote affordable housing; and
- Boost Florida's construction industry.

As a result of revisions made by the 1997 Legislature, on January 1, 1998, Florida Housing became a public-private entity to reduce bureaucracy, streamline many administrative processes and operate more effectively within the real estate and financial markets. Two changes were particularly important in this regard: accelerated disbursement of trust fund dollars to the private sector and local governments, and elimination of duplicative services in the issuance of bonds. Funds disbursed by Florida Housing in loan closings for developments and homeowner mortgages, which took up to six weeks before Florida Housing became a public corporation, were processed through both DCA (now the Department of Economic Opportunity) and the Comptroller (now the Chief Financial Officer). The lengthy process was costly to private sector partners, created construction delays and slowed down implementation of local housing programs. The 1997 legislative changes authorized Florida Housing to disburse funds directly, typically within five business days. The bond issuance process also was streamlined by authorizing Florida Housing to issue bonds directly. Prior to this change, the Division of Bond Finance issued these bonds, requiring both agencies to provide staff for this purpose. The statute still requires the State Board of Administration to approve a fiscal determination for each bond issue carried out by Florida Housing.

Florida Housing is also subject to the Government-in-the-Sunshine Law, the Public Records Act, the Administrative Procedure Act, audits by the Chief Financial Officer for the State of Florida and the State Auditor General, and various other state and federal entities. Florida Housing is not a department of the executive branch of state government within the scope and meaning of Section 6, Article IV of the State Constitution, but is an instrumentality of the State. Sections 420.0006 and 420.504, F.S., require Florida Housing and DEO to sign a performance contract outlining the conduct of business by Florida Housing.

### **Statutory Responsibilities**

Section 420.507, F.S., assigns responsibilities to Florida Housing, which are summarized below:

- To carry out analyses of housing needs within the state and ways of meeting those needs;
- To participate in federal housing programs and federal community development, insurance and guarantee programs;
- To develop and administer the state rental and homeownership programs as outlined by statute;
- To designate and administer private activity tax exempt bond allocation received by Florida Housing pursuant to Part VI of Chapter 159 between the single family and multifamily programs;
- To set standards for and monitor compliance of residential housing financed by Florida Housing; and
- To conduct demonstration programs and projects which further the statutory purposes of Florida Housing.



## **Governance**

Florida Housing is governed by a Board of Directors, with eight members appointed by the Governor and subject to Senate confirmation, and the executive director of the Department of Economic Opportunity as an ex officio, voting member, or their designee. The following interests must be represented on the Board, pursuant to Section 420.504 (3), F.S.:

- Residential home building industry;
- Commercial building industry;
- Banking or mortgage banking industry;
- Home building labor representative;
- Low income advocate with experience in housing development;
- Former local government elected official;
- Two Florida citizens who are none of the above; and
- The Executive Director of the Florida Department of Economic Opportunity or a designee (ex officio voting).

Each member of Florida Housing's board of directors must file full and public disclosure of financial interests at the times and places and in the same manner required of elected constitutional officers under s. 8, Art. II of the State Constitution and any law implementing s. 8, Art. II of the State Constitution.<sup>1</sup>

The Board typically meets eight times per year. Day-to-day operations are managed by Florida Housing's executive director, who is appointed by the DEO Executive Director with the advice and consent of the Board, and a staff of about 125.

## **Financial Role**

As a financial institution, Florida Housing works with a variety of entities to finance affordable housing: private lenders and investors, mortgage and bond insurers, the Federal Home Loan Banks, liquidity facility providers, government sponsored enterprises (GSEs), federal agencies, for profit and nonprofit developers and property managers, local governments, public housing authorities and local housing finance authorities. In developing and implementing program priorities, the Florida Housing Board and staff must balance financial and market forces with our mission of serving Floridians who need well maintained, affordable housing. With more than 200,000 rental units currently financed and on the ground or in the construction pipeline, Florida Housing has approximately \$4.8 billion in assets. These assets are primarily in the form of loans receivable and securities resulting from single and multifamily loan transactions and are restricted by various bond indentures or by statute.

## **What Is Affordable Housing?**

Affordable housing is defined in terms of the income of the household living in the housing. Housing is generally said to be affordable when a family is spending no more than 30 percent of its income on housing. On the rental side, this includes utilities, while on the homeownership side, principal, interest, taxes and insurance are all part of the equation. A household is said to be severely cost burdened if it is paying more

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<sup>1</sup> Section 420.504(7), F.S.

than 50 percent of its income for housing. Households at the lower end of the income spectrum are more likely to be cost burdened.

Resident eligibility for Florida Housing programs is typically governed by area median income (AMI) levels. AMI data is published by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. While Florida's 2018 state median income is \$62,500, the AMI eligibility for a particular program is determined by the county or group of counties in which the property is located as well as family size. The following are standard household income level definitions and, for perspective, their relationship to the 2018 state median shown above (as a family's size increases or decreases, these income ranges also increase or decrease; the average household size in Florida is just above two persons):

- Extremely low income – earning up to 30 percent AMI (at or below \$18,750);
- Very low income – earning from 30.01 to 50 percent AMI (\$18,751 to \$31,250);
- Low income – earning from 50.01 to 80 percent of AMI (\$31,251 to \$50,000); and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$50,001 to \$75,000).

## **Florida Housing Finance Corporation's Role in the Financial Market**

Florida Housing uses federal and state resources to make loans and guarantees of loans to further our mission, including private activity tax exempt bonds. Each resource for financing brings with it certain financial risks. Every bond transaction is structured to provide an array of protections to assure that the mortgage and the bonds will be paid. Credit enhancement is the primary means of protection.

As an issuer of tax exempt bonds, Florida Housing understands the necessity of effecting efficient transactions in the bond market to achieve the best interest rate for the bonds sold. These transactions require Florida Housing to establish and maintain good working relationships with the following:

- The State Board of Administration;
- The Division of Bond Finance;
- The three major rating agencies;
- Credit enhancers;
- Investment bankers;
- Tax credit syndicators; and
- Bond investors.

Each one of these parties plays a pivotal role in financing affordable housing and bringing tax exempt bond transactions to completion.

Private activity tax exempt bonds are allocated to Florida Housing pursuant to the calculation in Part VI of Chapter 159 performed by the Division of Bond Finance on an annual basis. Florida Housing receives approximately 25 percent of the annual state private activity bond volume. In 2018, the allocation to Florida Housing was \$526.5million.

These are revenue bonds; they are a not general obligation debt of the State of Florida, nor is the State liable for the debt in any way. Florida Housing Statutes clarify the revenue bond issuance process:

- **Section 420.51, F.S., State and local government not liable on bonds or notes** – The bonds of the corporation shall not be a debt of the state or of any local government, and neither the state nor any local government shall be liable thereon. The corporation shall not have the power to pledge the credit, the revenues, nor the taxing power of the state or of any local government shall be, or shall be deemed to be, pledged to the payment of any bonds of the corporation; and
- **Section 420.509(2), F.S., Revenue Bonds** – The State Board of Administration is designated as the state fiscal agency to make the determinations required by s. 16, Art. VII of the State Constitution in connection with the issuance of such bonds that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the same pledged revenues exceed the pledged revenues available for such debt service requirements.

The cash flow documents created for each issue and submitted to the State Board of Administration must demonstrate that it is in compliance with the above statutory and Constitutional requirement. For multifamily issues (each issue is a standalone indenture), revenues of the individual issue must meet these criteria. For single family issues which reside in a master indenture, the individual issue and the master indenture must both meet these criteria.

### **Who is responsible for the debt service payments on the revenue bonds?**

For **multifamily rental**, it is the indenture trust estate; the development (borrower) which is funded by the bonds. For **single family homeownership**, it is the indenture trust estate; for securitized loans in the indenture, the timely loan payment guarantees by Fannie Mae, Freddie Mac and Ginnie Mae (as of September 30, 2018 this is 90.22 percent of the 1995 single family bond indenture and 100 percent of the 2009 New Issue Bond Program single family indenture<sup>2</sup>); or for the whole loans in the 1995 master indenture, the borrower along with a primary mortgage insurer and a pool insurer.

### **How Mortgage Revenue Bonds Work at Florida Housing**

**Multifamily Rental** – Florida Housing facilitates the issuance of bonds by serving in a conduit capacity to lend bond proceeds to multifamily developers to construct/rehabilitate rental housing serving low income households. Each bond indenture is for a single purpose entity, i.e., each development that is financed. Only the development funded by the bonds supports the debt service of that indenture.

**Homeownership** – Single family bonds are part of one of two master indentures with all issuance of bonds (supplements to the master indenture) incorporated into one indenture. The indenture is the legal mechanism created to establish the trust estate related to the issued bonds and governs the assets and liabilities accumulated in the indenture.

In 2002, Florida Housing changed its homeownership program from a whole loan program in which Florida Housing took all financial responsibility for payment of the debt service on the bonds to a mortgage backed securities (MBS) program in which there is a guarantee as to the timely payment of loan principal and interest by Fannie Mae, Freddie Mac, or Ginnie Mae. This change further insulated Florida Housing’s financial risk related to debt service on the bonds. The 2009 indenture, created solely to cover single family bonds issued

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<sup>2</sup> The New Issue Bond Program was a short term response to the national credit and liquidity crisis which created extremely high interest rates on tax exempt bonds making them difficult to use for affordable housing programs.

under the authority of the New Issue Bond Program, is 100 percent MBS, resulting in no financial risk to Florida Housing related to debt service on the bonds.

To achieve the most advantageous pricing for program loans, Florida Housing settles MBS in various ways. As an alternative to selling tax exempt mortgage revenue bonds into the market, Florida Housing sells a portion of its securitized loans as specified pools in the secondary market. Depending on market conditions having both options available provides the best outcome for generating ongoing program resources. When sold, these securitized loans are no longer a part of Florida Housing's single family bond indentures. In February of 2013, in response to the continuously changing financial markets, Florida Housing added the To Be Announced (TBA) forward delivery market for selling conventional loans. The market products for selling securitized single family loan pools continues to evolve and Florida Housing will utilize the market products that are deemed most beneficial for homeownership including but not limited to tax exempt bonds, the specified pool market, and the TBA market.

In addition, Florida Housing also allocates Mortgage Credit Certificates to homebuyers. These certificates, which are made available from single family mortgage revenue bond volume cap, are tax credits which can be applied against a home buyer's annual federal tax liability each year the homeowner uses the home as their primary residence, increasing the homebuyer's after-tax wages and thus increasing their ability to afford a home.

Both the securities, as indenture assets, and the bonds, as indenture liabilities, are included on Florida Housing's balance sheet. The trust estate of the indenture, which is comprised of the indenture assets and liabilities, financially stands on its own. Neither the State of Florida nor Florida Housing general operations are responsible for the debt of the indenture.

While Florida Housing provides financing for homebuyer mortgages, we have never participated in subprime lending. Florida Housing reviews the performance of its homebuyer mortgages on a regular basis. At the end of the fourth quarter of 2017, 0.91 percent of the active loans originated by Florida Housing were in foreclosure, compared to the 1.70 percent of all loans statewide in foreclosure at that time.

## **Summary of Key Affordable Housing Programs Administered by Florida Housing Finance Corporation**

Florida Housing recognizes that not all Floridians are candidates for homeownership. Our affordable housing programs provide a range of housing types, both rental and homeowner, to ensure that residents have decent, affordable housing options that are appropriate for them.

### **Homebuyer Loan Programs**

**Objective:** To originate 30-year, fixed-rate, high loan-to-value mortgage loans for eligible first-time homebuyers who meet credit worthiness tests, have incomes within federal program limits and receive homebuyer education. For homeownership, the proceeds from tax exempt mortgage revenue bonds issued by Florida Housing are used by participating private lenders to originate 30-year, fixed-rate mortgage loans through this program; we have never participated in subprime lending. Florida Housing generally pairs some type of second mortgage purchase assistance with these mortgages to assist homebuyers, either through state

or federal funding, if available. The average sales price in the third quarter of 2018 was \$159,604 and the average loan amount was \$147,089.

**Source of Financing:** Primarily federal private activity bond volume allocated to states and secondary securities markets such as TBA and specified pool

### **Homeownership Assistance Program/Florida Assist 2<sup>nd</sup> Mortgage**

**Objective:** In conjunction with Homebuyer Loan Programs, to assist eligible homebuyers in purchasing their home, primarily by providing up to \$7,500 of down payment assistance in the form of a 0-percent interest, non-amortizing second mortgage loan that runs concurrently with the first mortgage, which means the homebuyer does not make any monthly payments. Instead, the loan is repaid when the homebuyer sells the home, transfers ownership, satisfies or refinances the first mortgage, or ceases to occupy the home.

**Source of Financing:** Appropriations from the State Housing Trust Fund

### **Mortgage Credit Certificates**

**Objective:** To provide eligible homebuyers with an annual federal tax credit that can be applied against their federal tax liability each year as long as the home is the primary residence, thus increasing the homebuyer's after-tax income and thereby increasing their ability to afford a home.

**Source of Financing:** Federal private activity bond volume allocated to states

### **Multifamily Mortgage Revenue Bonds**

**Objective:** To finance the development and preservation of rental apartments through proceeds from taxable and tax exempt bonds issued to provide below market rate loans to developers who set aside a certain percentage of their apartments for low income families.

**Source of Financing:** Federal private activity bond volume allocated to states

### **Low Income Housing Tax Credits**

**Objective:** To provide equity to developers through private sector investment by providing a dollar-for-dollar reduction in federal tax liability in exchange for the acquisition/substantial rehabilitation and new construction of affordable rental housing for low income households. Affordable housing developers sell these tax credits to large, private investors and use the cash from the sale to infuse equity into the construction of the property, lessening the need for additional debt.

**Source of Financing:** Federal population-based allocation to states

### **HOME Investment Partnership Program**

**Objective:** Provides low-interest or zero-interest loans to developers to finance the construction and rehabilitation of homes and rental apartments. Additionally, HOME funds may be used for Tenant Based Rental Assistance to provide rent subsidy and security deposit assistance for very low- to moderate income households.

**Source of Financing:** Federal funding

## **State Apartment Incentive Loan Program (SAIL)**

**Objective:** To provide gap financing through non-amortizing, low-interest loans to developers to leverage mortgage revenue bonds or competitive Low Income Housing Tax Credit resources and obtain the full financing needed to construct affordable rental units for very low income families.

**Source of Financing:** The state affordable housing trust funds and unobligated Florida Affordable Housing Guarantee funds

## **Florida Affordable Housing Guarantee Program**

**Objective:** Authorized by the Legislature in 1992, the Guarantee Program was created to provide credit enhancement (i.e., mortgage repayment guarantees) primarily on bond-financed affordable rental housing developments at the time when such products for bond transactions were mostly unavailable in the private market. During its active phase, the program guaranteed 120 transactions, representing approximately \$1.4 billion and over 28,000 rental units, the majority of which partnered with HUD's Risk-Sharing Program (Section 542c), with HUD assuming 50 percent of the default risk. The program's last transaction was in 2005 and, in March 2009, Florida Housing's Board of Directors officially confirmed the suspension of new guarantees.

Capitalization of the Guarantee Fund occurred through the statutorily authorized issuance of debt, and the Guarantee Fund corpus is currently invested in the Florida Treasury. Documentary stamp taxes distributed to the State Housing Trust Fund are the essential element for maintaining the Guarantee Fund's insurer financial strength (IFS) credit rating; currently A+/Stable by Standard & Poor's and Fitch Ratings. In the event the Guarantee Fund is rated less than in the top three claims paying ratings by any of the rating agencies, the state would be required to use collections distributed to the State Housing Trust Fund to replenish the Guarantee Fund at the amount necessary to maintain the minimum IFS claims paying rating.

As of December 31, 2017, the program guarantees covered 829 units in 3 multifamily transactions, representing approximately \$20 million risk in force. Capital not needed to support the outstanding Guarantees was made available for use in the 2017 competitive solicitations. Specifically, \$40 million was made available to workforce housing and the remaining \$73 million to SAIL.

## **State Housing Initiatives Partnership Program (SHIP)**

**Objective:** To provide funds to all 67 county local governments and Florida's larger cities on a population-based formula to finance and preserve affordable housing for very low, low, and moderate income families based on locally adopted housing plans. A minimum of 20% of funds must be used to serve persons with special needs. At least 65 percent of funds must be used for homeownership, although on average 85 percent of the funds have gone for this purpose annually. Funding is routinely used for such strategies as rehabilitation, emergency repairs, down payment assistance and homeownership counseling.

**Source of Funding:** Local Government Housing Trust Fund

## **Hardest-Hit Fund**

In 2010, U.S. Treasury provided funds to states with housing markets that were hardest hit with foreclosures, housing price declines, and unemployment. There are 18 states and the District of Columbia participating in the Hardest-Hit Fund (HHF) Program. Florida's total allocation has equaled more than \$1.1 billion. From program inception through June of 2018 more than \$1 billion in HHF funds was reserved to assist over 52,000

Floridians. A number of strategies have been funded through the HHF. Many of these strategies were discontinued in 2018 and the program is no longer accepting new applicants.

- **Unemployment Mortgage Assistance Program (UMAP)** - The UMAP provides up to \$24,000 for up to 12 months (whichever comes first) in monthly first mortgage payment assistance on behalf of qualified borrowers with an eligible hardship.
- **Mortgage Loan Reinstatement Program (MLRP)** - MLRP funds (when used in conjunction with UMAP) are available in an amount of up to \$18,000 to help satisfy all or some of the arrearages on the first mortgage prior to UMAP payments commencing. When used without UMAP, MLRP-only funds are available in an amount of up to \$25,000 as a one-time payment to assist in bringing a delinquent first mortgage current for a homeowner who has returned to work or recovered from an eligible hardship.
- **Principal Reduction (PR)** - The HHF-PR program is designed to assist eligible homeowners by providing up to \$50,000 applied to the principal balance of the first mortgage to reduce the loan-to-value to no less than 100 percent.
- **Modification Enabling Pilot (MEP) Program** - The MEP program is designed to provide assistance to eligible borrowers with the intent to permanently modify and reduce the borrower's loan amount to an affordable level.
- **Elderly Mortgage Assistance Program (ELMORE)** - The ELMORE program pays up to \$50,000 to assist seniors who are in default on their reverse mortgage because of their inability to pay their taxes, insurance and other property charges.
- **Downpayment Assistance (DPA) Program** - The DPA Program provides eligible borrowers with up to \$15,000 in the form of a 0-percent, forgivable second mortgage, which can be used for downpayment, closing costs, prepaid expenses, mortgage insurance premiums, or as a principal reduction to the first mortgage. There are 11 counties currently approved by US Treasury where this program may be used.

**Source of Funding:** Federal Troubled Asset Relief Program (TARP)

### **Foreclosure Counseling Program**

**Objective:** To provide counseling services throughout the state to help homeowners avoid foreclosure; provide good financial management education to help families better manage their money; provide extended financial coaching; and assist families with credit problems to become financially stable. Foreclosure counseling services are provided through a network of U.S. Department of Housing and Urban Development-approved nonprofit housing counseling agencies throughout the state through fee-for-service contracts with Florida Housing. In 2016, funding was also made available to SHIP local governments to provide these services directly or through a community partner. These SHIP funds began to flow in 2017.

**Source of Funding:** National Mortgage Settlement funds appropriated by the 2013 Legislature

### **National Housing Trust Fund (NHTF)**

**Objective:** Federal program to increase and preserve the supply of rental housing for ELI households and Very Low Income (VLI) households. Florida's funding preferences are for rental developments that set aside a very small portion of units to serve ELI populations with incomes at or near the Supplemental Security Income levels (about 22% of AMI), targeted to homeless persons, those at risk of homelessness, or persons with

special needs. NHTF funds may be used for development hard costs, demolition, acquisition of real property, related soft costs and operating cost reserves.

**Source of Funding:** Federal block grant to the states from HUD with exact amounts determined by a need based formula

### **Financing Initiatives Targeting Persons with a Disabling Condition**

**Objective:** To provide financing for affordable rental housing developments targeting persons with developmental disabilities. Developments may include new construction or renovation of existing units. Funding is provided as grants which are competitively offered to nonprofit organizations.

**Source of Funding:** State Housing Trust Fund (Legislation in 2016 requires Florida Housing to annually reserve a minimum of 5% of its SHTF appropriation for such initiatives going forward)

### **Hurricane Housing Recovery Programs**

**Objective:** Construction of new affordable rental housing in areas impacted by Hurricane Irma and in areas that experienced a population influx because of migration from Puerto Rico and the U. S. Virgin Islands due to Hurricane Maria. FHFC will serve as a sub-recipient to the Department of Economic Opportunity (DEO), administering competitive solicitations seeking applications from for-profit and not-for-profit developers. Development will be new construction and may include re-development of uninhabitable dwellings. and public housing authorities to build affordable housing in targeted areas of the state

**Source of Financing:** Federal funding

### **Affordable Housing Catalyst Program**

**Objective:** Provide on-site and telephone/email technical assistance as well as training through workshops and webinars on state and federal affordable housing programs being implemented in Florida. The program is targeted to local governments and nonprofit organizations. Florida Housing contracts with an experienced provider to implement this program.

**Source of Funding:** State Housing Trust Fund

### **Web-Based Affordable Rental Locator for the Public (FloridaHousingSearch.org)**

**Objective:** Provide a free, online affordable rental housing locator that helps citizens search for housing throughout Florida. *FloridaHousingSearch.org* allows users to search for and find available rental units by many different search criteria, including rent amount, city, county, and zip code. Map links also are offered to allow users to search for housing near schools, transportation and employment.

**Source of Funding:** Florida Housing

## **Funding Affordable Housing Leads to Economic Benefits for Florida**

Construction and development are important job and economic generators for local communities and states. In carrying out its mission to provide a range of affordable housing opportunities for residents that help make Florida communities great places to live, work and do business, Florida Housing provides financing through a range of federal and state programs that provide important economic benefits for the state.

To assist us in estimating the economic impact of Florida Housing's programs, we have worked with Florida State University to develop an analysis. The most recent information available showing Florida Housing's



economic impact to the state is for program activity in 2016. In 2016, Florida Housing leveraged funding to create a total of \$5.48 billion in economic activity. The total annual economic impact as a result of the development activities resulting from Florida Housing’s programs, as well as operations, is estimated to be:

- \$5.48 billion in economic output,
- \$1.85 billion in income,
- \$3.05 billion in value added, and
- 38,803 full and part-time jobs.

In addition, researchers at Florida State University analyzed the on-going economic impact created each year for the first 15 years of each rental property based on their projected operations. The additional average annual economic impact over this period of operations is projected to be:

- \$519 million in economic output (equal to \$7.79 billion over 15 years),
- \$355 million in personal income (equal to \$5.33 billion over 15 years),
- 2,781 full and part-time jobs (equal to 41,715 over 15 years).

Florida Housing’s objective is to carefully target any new rental construction to those areas of the state where there is a defined need for such housing. The data show us there is currently a need for new affordable rental units in many markets in Florida, particularly because of rent increases as urban markets strengthen. In areas where new construction is not currently needed, economic benefit results when we finance rehabilitation of older, existing affordable apartments (generally 20+ years old) to extend affordability and ensure that they remain in good condition.

## **Florida Housing Finance Corporation’s Role in the State’s Housing Delivery System**

In the first years of its operation, Florida Housing accessed only federal resources to finance housing, but these funds proved difficult to use on their own. To leverage and augment these programs, the Florida Legislature began appropriating some funding for state programs in the late 1980s. However, it was the enactment of the William E. Sadowski Affordable Housing Act in 1992 that created a dedicated source of revenue for affordable housing from a portion of documentary stamp taxes on the transfer of real estate. This legislation provided both the funding mechanism for state and local programs, as well as a flexible, but accountable framework for local programs to operate. The dedicated revenue comes from:

- A ten-cent increase to the documentary stamp tax paid on the transfer of real estate, which began in August 1992; and
- A re-allocation of ten cents of existing documentary stamp tax revenues from general revenue to the affordable housing trust funds, which began in July 1995.

Charts showing the history of trust fund appropriations and allocations are provided on the next pages.

The 2005 Legislature adopted a cap restricting the amount of revenue that may flow into the housing trust funds to \$243 million per year, with a mechanism for a small increase over time. The cap went into effect July 1, 2007. The 2011 Legislature removed the cap, but created a new annual requirement starting July 1, 2012, which provides that the first \$75 million in documentary stamp tax collections credited to the housing trust

funds is automatically transferred to the State Economic Enhancement and Development (SEED) Trust Fund within DEO. The statutory change maintains the priority of payments for the Guarantee Fund as needed. The SEED fund gives the Governor a certain level of flexibility to create economic development opportunities. Florida Housing has the ability to compete for funding from the SEED trust fund. At this time, all of Florida Housing's state funds are appropriated through the housing trust funds created by the Sadowski Act or through one-time initiatives such as the National Mortgage Settlement; no appropriations are made to us from general revenue.

Florida Housing Documentary Stamp Tax Appropriations		1992/1993	1993/1994	1994/1995	1995/1996	1996/1997	1997/1998	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
PROGRAM NAME																
State Housing Trust Fund																
State Apartment Incentive Loan (SAIL)	\$	11,500,000	14,800,000	15,200,000	23,323,350	26,600,000	24,220,629	30,783,734	30,085,000	36,470,000	48,308,010	66,048,812	43,978,169	46,638,090	48,411,461	55,102,200
State Apartment Incentive Loan (SAIL)																
Homeownership Assistance (HAP)		2,000,000	3,000,000	3,000,000	3,588,400	4,000,000	3,000,000	6,221,600	5,000,000	6,000,000	5,000,000	-	3,000,000	3,000,000	-	8,000,000
HOME Investment Partnerships (HOME)		2,000,000	2,950,000	2,000,000	746,200	2,000,000	1,300,000	2,488,800	2,000,000	2,000,000	2,000,000	-	-	-	-	-
Preadevelopment Loan (PLP)		750,000	500,000	500,000	1,794,200	2,000,000	1,000,000	1,244,000	1,000,000	1,500,000	2,000,000	4,000,000	2,000,000	-	-	-
Guarantee Fund Debt Service		1,100,000	750,000	2,292,430	2,132,839	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	3,865,000	5,400,000	5,400,000	5,400,000	6,400,000	6,400,000
Affordable Housing Study Commission/ Task Force																
Cablest Program																
Housing Data Clearinghouse																
Hurricane Funding																
Farmworker & Special Needs (SHADP)																
EU & Special Needs																
Technical Assistance																
Transfer to Community Contribution Tax Credit																
SHIP																
Project Independence					750,000											
Soldiers to Scholars					300,000											
Guarantee Program Feasibility Study	100,000															
SHIP Compliance Monitoring																
Administration				1,174,008	1,289,279	1,538,279	1,503,001	1,351,276	1,501,276	1,501,276	1,426,212	1,354,901	677,450	-	-	-
<b>TOTAL SHIF Appropriations</b>	<b>\$</b>	<b>17,450,000</b>	<b>22,000,000</b>	<b>24,166,438</b>	<b>33,916,468</b>	<b>38,138,279</b>	<b>33,433,630</b>	<b>44,089,410</b>	<b>41,586,276</b>	<b>49,471,276</b>	<b>62,821,212</b>	<b>76,930,168</b>	<b>55,185,171</b>	<b>55,906,623</b>	<b>130,406,623</b>	<b>132,600,000</b>
<b>Sweep SHIF</b>	<b>\$</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>12,000,000</b>	<b>-</b>	<b>37,282,837</b>	<b>67,800,000</b>	<b>-</b>	<b>-</b>
Local Government Housing Trust Fund																
SHIP	\$	18,750,000	25,000,000	26,500,000	79,000,000	86,581,888	86,700,000	124,200,000	143,890,000	136,100,000	126,600,000	163,443,545	130,756,501	130,758,367	130,726,637	166,250,000
Homeless Programs - DCF & DEO						900,000	900,000	900,000	900,000	900,000	5,900,000	5,900,000	5,900,000	5,900,000	5,900,000	7,900,000
SHIP Compliance Monitoring								200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Cablest Program																
Housing Data Clearinghouse																
Hurricane Funding						1,750,000						126,455	129,499	127,633	159,363	150,000
Community Workforce Housing Innovation Pilot (CWHP)															175,500,000	75,900,000
Presentation Pilot Program																50,000,000
State Apartment Incentive Loan (SAIL)																
Public Housing Mitigation Initiative																
Florida Supportive Housing Coalition																
<b>TOTAL LGHIF Appropriations</b>	<b>\$</b>	<b>18,750,000</b>	<b>25,000,000</b>	<b>26,500,000</b>	<b>79,000,000</b>	<b>89,231,888</b>	<b>87,600,000</b>	<b>125,300,000</b>	<b>144,990,000</b>	<b>137,200,000</b>	<b>132,700,000</b>	<b>169,670,000</b>	<b>136,986,000</b>	<b>136,986,000</b>	<b>312,486,000</b>	<b>300,400,000</b>
<b>Sweep LGHIF</b>	<b>\$</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>83,614,000</b>	<b>-</b>	<b>-</b>
<b>Total SHIF &amp; LGHIF Appropriations</b>	<b>\$</b>	<b>36,200,000</b>	<b>47,000,000</b>	<b>50,666,438</b>	<b>112,916,468</b>	<b>127,369,167</b>	<b>121,033,630</b>	<b>169,389,410</b>	<b>186,576,276</b>	<b>186,671,276</b>	<b>195,521,212</b>	<b>246,600,168</b>	<b>192,171,171</b>	<b>192,892,623</b>	<b>442,892,623</b>	<b>453,000,000</b>
<b>Total Sweep SHIF &amp; LGHIF</b>	<b>\$</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>12,000,000</b>	<b>-</b>	<b>120,896,837</b>	<b>220,800,000</b>	<b>-</b>	<b>-</b>

Florida Housing Documentary Stamp Tax Appropriations											
PROGRAM NAME	2007 / 2008	2008 / 2009 (incl. SB 2A & shortfall)	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
<b>State Housing Trust Fund</b>											
State Apartment Incentive Loan (SAIL)	\$ 115,000,000	\$ (101,500,900)									
Homeownership Assistance (HAP)	18,087,200	88,500,900		37,500,000							9,500,000
HOME Investment Partnerships (HOME)											8,085,000
Predevelopment Loan (PLP)											
Guarantee Fund Debt Service	6,400,000										
Affordable Housing Study/Commission / Task Force	175,000										
Catalyst Program	672,800								400,000		100,000
Housing Data Clearinghouse	165,000								300,000	285,000	315,000
Hurricane Funding		(26,216,829)									
Farmworker & Special Needs (SHADP)		(9,846,695)									
ELI & Special Needs	15,000,000	4,619,790				10,000,000		10,000,000	10,000,000	10,000,000	10,000,000
Technical Assistance											
Transfer to Community Contribution Tax Credit			169,989								
SHIP											
Project Independence		2,330,011									
Soldiers to Scholars		33,244,086									
Guarantee Program Feasibility Study											
SHIP Compliance Monitoring											
Administration											
<b>TOTAL SHIF Appropriations</b>	<b>\$ 155,500,000</b>	<b>\$ (15,149,077)</b>	<b>\$ 169,989</b>	<b>\$ 37,500,000</b>	<b>\$ -</b>	<b>\$ 10,000,000</b>	<b>\$ -</b>	<b>\$ 67,660,000</b>	<b>\$ 70,000,000</b>	<b>\$ 64,600,000</b>	<b>\$ 28,000,000</b>
<b>Sweep SHIF</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 36,830,000</b>	<b>\$ 25,921,198</b>	<b>\$ 56,343,754</b>	<b>\$ 29,815,000</b>	<b>\$ 52,730,000</b>	<b>\$ 14,298,030</b>	<b>\$ 6,000,000</b>	<b>\$ 30,414,438</b>	<b>\$ 99,270,000</b>
<b>Local Government Housing Trust Fund</b>											
SHIP	\$ 166,018,500	\$ -	\$ 168,040,024	\$ 30,110,000	\$ -	\$ -	\$ -	\$ 96,000,000	\$ 101,000,000	\$ 129,800,000	\$ 94,225,000
Homeless Programs - DCF & DEO	5,900,000		5,436,805					4,000,000	4,000,000	5,200,000	5,200,000
SHIP Compliance Monitoring	416,500		383,802								
Catalyst Program										500,000	500,000
Housing Data Clearinghouse	165,000										
Hurricane Funding											
Community Workforce Housing Innovation											
Pilot (CWHIP)	62,400,000	(84,471,877)									
Preservation Pilot Program		4,899,900									
State Apartment Incentive Loan (SAIL)											9,000,000
Public Housing Mitigation Initiative											
Florida Supportive Housing Coalition			1,000,000								
<b>TOTAL LGHTF Appropriations</b>	<b>\$ 234,900,000</b>	<b>\$ 84,453,654</b>	<b>\$ 31,110,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 100,000,000</b>	<b>\$ 105,000,000</b>	<b>\$ 135,500,000</b>	<b>\$ 109,000,000</b>
<b>Sweep LGHTF</b>	<b>\$ -</b>	<b>\$ 319,471,877</b>	<b>\$ 55,070,000</b>	<b>\$ 148,388,802</b>	<b>\$ 133,187,355</b>	<b>\$ 66,845,000</b>	<b>\$ 151,400,000</b>	<b>\$ 91,853,337</b>	<b>\$ 75,000,000</b>	<b>\$ 86,500,000</b>	<b>\$ 95,130,000</b>
<b>Total SHIF &amp; LGHTF Appropriations</b>	<b>\$ 390,400,000</b>	<b>\$ 69,304,577</b>	<b>\$ 31,279,989</b>	<b>\$ 37,500,000</b>	<b>\$ -</b>	<b>\$ 10,000,000</b>	<b>\$ -</b>	<b>\$ 167,660,000</b>	<b>\$ 175,000,000</b>	<b>\$ 200,100,000</b>	<b>\$ 137,000,000</b>
<b>Total Sweep SHIF &amp; LGHTF</b>	<b>\$ -</b>	<b>\$ 440,000,000</b>	<b>\$ 91,900,000</b>	<b>\$ 174,310,000</b>	<b>\$ 189,531,109</b>	<b>\$ 96,660,000</b>	<b>\$ 204,130,000</b>	<b>\$ 106,151,367</b>	<b>\$ 81,000,000</b>	<b>\$ 116,914,438</b>	<b>\$ 154,400,000</b>

## **How Florida Housing Finance Corporation Makes Resource Allocation Decisions**

Florida Housing targets funding to specific populations and geographic areas of the state based on a number of factors. Federal and state programs target all or a portion of funds to households at or below income levels set by each program.

On the homeownership side, Florida Housing follows federal income targeting requirements, allowing us to provide financing to households with incomes as high as 115 percent of AMI in the government loan program or 140 percent of AMI for the conventional TBA program. On the rental side, targeted program incomes are generally lower to assist families that are unlikely to be able to afford homeownership. For example, the federal Low Income Housing Tax Credit Program requires that a portion of rental units in an apartment complex be set aside for families with incomes at or below 50-60 percent of area median income. Other federal rental programs are similar. As specified in s. 420.507, F.S., Florida Housing undertakes and uses studies and analyses of housing needs within the state, along with regular input from stakeholders and current market conditions to target program resources. Continuing input from stakeholders provides context and direction to Florida Housing's Board and staff. Interested parties are encouraged to provide comments and critiques of our programs by mail, phone, personal contact and public meetings that are held regularly each year as we modify programs to respond to changing policies and market conditions.

Florida Housing's Board and staff are constantly analyzing data, seeking input on financial and economic conditions and trends, and weighing this information with the range of changing housing needs to provide a set of balanced programs to finance affordable housing in an economically feasible manner. The Florida Housing Board and staff strive to allocate resources in a fair, open and rational way that is stable, predictable and user-friendly for the many participants in our programs and processes.

On the rental side, Florida Housing allocates program resources, such as federal Low Income Housing Tax Credits, through a competitive solicitation process whereby a series of approximately 15 "Requests for Applications" (RFAs) are issued each year to focus on various geographic areas of the state and offer funding for different types of housing and to serve different populations in need. For each RFA issued, a draft is circulated for public comment and one or more public workshops are held to seek input. Stakeholders may submit comments at these meetings or via phone, email or letter. This allocation process maintains a balanced, open, and transparent process that is flexible and is capable of reacting to changing markets and needs.

On the homeownership side, participating private lenders throughout the state originate mortgages through the Homebuyer Loan Programs to homebuyers on a first come, first served basis according to federal and state regulations and indenture criteria. Through Florida Housing's Home Ownership Pool Program, builders may apply to reserve down payment assistance on a first come, first served basis for their homebuyers when funding is available.

According to statute, SHIP funds are distributed to counties and eligible cities on a population-based formula. Local governments must follow statutory and administrative rule requirements in the disbursement of funds, but the program's premise is to allow them to set their own priorities within these guidelines according to local need as outlined in a locally adopted plan.

## **Accountability – How Florida Housing Finance Corporation Ensures Program Resources Are Appropriately Used**

### **Multifamily Rental Process**

The rental funding process begins with rule making and development of one or more Requests for Applications. Applications are submitted, scored independently by each member of a staff review committee, discussed and ranked by the full committee and the final recommendation is sent to Florida Housing's Board of Directors for approval. Applicants have the right to contest the findings through an administrative hearing process.

Once recommended orders are issued through the hearing process and brought back to the Board for final action, developments awarded financing are invited to enter the credit underwriting process. Developments are assigned to one of three independent credit underwriters under contract with Florida Housing. Independent professionals approved by the credit underwriter complete necessary evaluations, such as appraisals and market studies. Credit underwriting reports are reviewed and approved by Florida Housing staff and the Board of Directors before loan closing may proceed. At loan closing, Florida Housing receives construction completion guarantees and operating deficit guarantees as applicable. The developer signs personal guarantees for these.

Throughout the construction process, Florida Housing's servicers manage the draw process, construction inspections and other duties to ensure commitments. Once the development is completed, Florida Housing's compliance monitoring agents visit every development at least every year for the portion of our portfolio with state funds, and at least once every three years (as required by federal regulations) for those properties with Low Income Housing Tax Credits only that are in their first 15 years of their federal compliance period. For the remaining affordability period, these properties are monitored annually. The monitors ensure compliance with applicable federal and state statutes and rules, and with the loan closing documents. Florida Housing's staff and servicers also receive and review audited financial statements for each property annually as a part of our permanent loan servicing and asset management processes.

### **Single Family Homeownership Process**

In Florida Housing's Single Family construction programs, the process for credit underwriting and construction loan servicing works in the same way that it does for our multifamily process. Applications for Florida Housing's down payment assistance loans by builders on behalf of homebuyers are also reviewed by our servicers who verify income and purchase price limits. Funds are not released until Florida Housing has sign-off from the servicer. In Florida Housing's down payment assistance programs, which are coupled with our Homebuyer Loan Programs, our Compliance servicer provides our "bond compliance" function. They review each loan made by participating lenders to make sure that it complies with federal and state income and purchase price limits.

## **State Housing Initiatives Partnership Program**

SHIP eligible local jurisdictions submit their Local Housing Assistance Plans (LHAPs) to Florida Housing for review to ensure that they meet the broad statutory guidelines and requirements of the program rules. Florida Housing must approve an LHAP before a local government may receive SHIP funding. Florida Housing reviews each local jurisdiction's annual report which details how they have spent or encumbered their SHIP funds. Local jurisdictions are also required to send Florida Housing their annual audited financial statements and their Florida Single Audit Act reports for review.

Compliance monitoring is performed using a risk based approach with the amount of SHIP dollars received by the local government as one of the risk factors considered. Florida Housing's Inspector General may also audit local governments at any time. If problems are found, follow-up and annual reviews are scheduled, and Florida Housing may assign technical assistance providers to assist the local jurisdiction with formulating and implementing a corrective action plan. When funds have been found to have been misused, the local jurisdiction has reimbursed that amount of funds. If technical assistance and/or training fail to correct the problems and a pattern of violations is established, Florida Housing has statutory authority to suspend or possibly terminate disbursement of funds to the local jurisdiction.

## **Other Accountability Measures**

Quality Assurance Reviews are performed by Florida Housing to determine compliance with external contract requirements for such areas as: credit underwriting, loan servicing, compliance monitoring and bond trustee services. Internally, Florida Housing's Inspector General oversees the audit and investigative functions for all aspects of the Corporation's programs and operations. Audits or other engagements can be initiated by internal audit risk assessments, the Board, Executive Director and internal or external complaints. Florida Housing contracts with an independent audit firm to carry out annual audits of the financial statements. The independent auditor opines on the financial statements, internal control over financial reporting and on compliance and other matters, and compliance and internal controls applicable to each major federal award program. Florida Housing is also subject to audits by the Auditor General, the State of Florida Chief Financial Officer, DEO, the Office of Program Policy Analysis and Government Accountability (OPPAGA), HUD, U.S. Treasury, the Internal Revenue Service and other state and federal entities at their discretion.

In addition, the following best business practices and financial transparency information is readily available on Florida Housing's website:

- Reports that include metrics and return on investment calculations;
- All relevant audits, tax returns, financial reports and summaries;
- All statutorily required reports;
- All vendor contracts;
- External reports detailing Corporation spending; and
- An organizational chart, and employee position and salary information.

## Background Materials

The following linked materials provide more information about Florida Housing Finance Corporation and its programs. All materials are also available on the Florida Housing website or by accessing the State of Florida Auditor General website.

### Transparency Webpage on Florida Housing's Public Website

<https://www.floridahousing.org/about-florida-housing/transparency>

### 2017 Audited Financial Statements

[http://www.floridahousing.org/docs/default-source/data-docs-and-reports/finance/audited-financial-reports/2017-audited-financial-statements.pdf?sfvrsn=65b3317b\\_2](http://www.floridahousing.org/docs/default-source/data-docs-and-reports/finance/audited-financial-reports/2017-audited-financial-statements.pdf?sfvrsn=65b3317b_2)

### 2017 Annual Report

[https://issuu.com/fhfc/docs/fhfc-annual\\_report-2017\\_web\\_82303756ccc3b6](https://issuu.com/fhfc/docs/fhfc-annual_report-2017_web_82303756ccc3b6)

### Florida Housing Finance Corporation's Strategic Plan [adopted September 19, 2014]

<https://www.floridahousing.org/docs/default-source/data-docs-and-reports/strategic-plan/2014-adopted-strategic-plan---september-19-2014.pdf?sfvrsn=2>

### Chapter 420, Part V, Florida Statutes [pertaining to Florida Housing Finance Corporation]

[http://www.leg.state.fl.us/STATUTES/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0400-0499/0420/0420PARTVContentsIndex.html](http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0400-0499/0420/0420PARTVContentsIndex.html)

### Florida Administrative Code Rules that Apply to Florida Housing Programs

<https://www.floridahousing.org/legal/rules>

### Affordable Housing Services Contract with DEO

<http://www.floridahousing.org/docs/default-source/legal/contracts/2014/c1334---florida-department-of-economic-opportunity---affordable-housing-services-contract475356c2fb0d6fb69bf3ff00004a6e0f.pdf?sfvrsn=2>

### Florida Housing Finance Corporation Operational Audit, State of Florida Auditor General, Report No. 2017-047, November 2016

[https://flauditor.gov/pages/pdf\\_files/2017-047.pdf](https://flauditor.gov/pages/pdf_files/2017-047.pdf)

### 2017 Affordable Housing Workgroup Final Report

[https://issuu.com/fhfc/docs/ahwg-report\\_2017-web](https://issuu.com/fhfc/docs/ahwg-report_2017-web)



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date 3.12.10

Bill Number (if applicable) 568

Topic Assessment of property

Amendment Barcode (if applicable)

Name Albert Balido

Job Title \_\_\_\_\_

Address 201 W Park Ave #100

Phone 850 251 3416

Street Park City FL State \_\_\_\_\_ Zip 32301

Email Albert@AmBldgAppraisers.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

By Senator Diaz

36-01147-19

2019568\_\_

1 A bill to be entitled  
 2 An act relating to the assessment of property;  
 3 creating s. 193.019, F.S.; authorizing local  
 4 governments to enter into agreements with certain  
 5 property owners to authorize the local governments to  
 6 record specified restrictive covenants related to  
 7 affordable housing; authorizing such covenants to  
 8 contain resale restrictions and to be amended or  
 9 supplemented under certain circumstances; specifying  
 10 where such covenants must be recorded; requiring such  
 11 local governments to provide property appraisers with  
 12 a certain list by a certain date; requiring property  
 13 appraisers to consider such restrictive covenants in  
 14 arriving at the just value of such properties;  
 15 specifying that such restrictive covenants and the  
 16 changes and updates to and resale restrictions in the  
 17 covenants are deemed a land use regulation; amending  
 18 s. 196.183, F.S.; revising the requirements that allow  
 19 property appraisers to exempt certain property from  
 20 the tangible personal property tax; providing an  
 21 effective date.

22  
 23 Be It Enacted by the Legislature of the State of Florida:

24  
 25 Section 1. Section 193.019, Florida Statutes, is created to  
 26 read:

27 193.019 Assessment of property with restrictive covenants.-  
 28 (1) (a) A local government may enter into an agreement with  
 29 a property owner which authorizes the local government to record

Page 1 of 3

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

36-01147-19

2019568\_\_

30 with the clerk of court a restrictive covenant running with the  
 31 land for a term of at least 20 years stating that the property  
 32 will be used to provide affordable housing to extremely-low-  
 33 income, very-low-income, low-income, or moderate-income persons  
 34 as defined in s. 420.0004 or workforce housing as defined in s.  
 35 420.5095(3). The covenant may contain resale restrictions.

36 (b) A property owner and the local government may agree to  
 37 amend, supplement, or attach an addendum to the recorded  
 38 covenant so long as the amendment, supplement, or addendum does  
 39 not significantly alter the intent of the original covenant.

40 (2) Each restrictive covenant shall be recorded in the  
 41 public records of the county where the property is located. Each  
 42 local government that enters into an agreement with a property  
 43 owner shall provide the property appraiser with a list of all  
 44 agreements entered into for the calendar year no later than  
 45 December 1 of the year before the year in which the revised  
 46 assessment will take effect.

47 (3) In addition to considering the factors listed in s.  
 48 193.011 in arriving at just value, the property appraiser shall  
 49 consider each property with a restrictive covenant in accordance  
 50 with the terms of the covenant, including any recorded  
 51 amendment, supplement, or addendum to, or resale restriction in,  
 52 the covenant.

53 (4) Each covenant, including any amendment, supplement, or  
 54 addendum to, or resale restriction in, the covenant, which is  
 55 recorded in the official public records of the county in which  
 56 the land is located is deemed a land use regulation during the  
 57 term of the covenant.

58 Section 2. Subsection (4) of section 196.183, Florida

Page 2 of 3

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

36-01147-19

2019568\_\_

59 Statutes, is amended to read:

60 196.183 Exemption for tangible personal property.-

61 (4) Owners of property ~~previously~~ assessed by the property  
62 appraiser without a return being filed may, at the option of the  
63 property appraiser, qualify for the exemption under this section  
64 without filing an initial return.

65 Section 3. This act shall take effect July 1, 2019.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 856

INTRODUCER: Senator Gruters

SUBJECT: Homestead Exemptions

DATE: March 9, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon	Yeatman	CA	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 856 provides that a person receiving a homestead ad valorem tax exemption in Florida and simultaneously receiving, in another state, a similar exemption that requires permanent residency in that state is entitled to the Florida homestead exemption unless the person was *knowingly and intentionally* receiving the ad valorem exemption in the other state. Current law provides that a property owner who is receiving or claiming an ad valorem tax exemption in another state that is conditioned upon permanent residency in that state may not receive the ad valorem homestead exemption in Florida.

The bill also attempts to establish a process for the circuit court to determine if a person was a permanent resident of this state during the year or years when a homestead exemption, as determined by a property appraiser, was improperly granted.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

**II. Present Situation:**

**General Overview of Property Taxation**

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.<sup>1</sup> The property appraiser annually determines the assessed or “just value”<sup>2</sup>

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<sup>1</sup> Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>2</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing

of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."<sup>3</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes<sup>4</sup> and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.<sup>5</sup>

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;<sup>6</sup> however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;<sup>7</sup> land used for conservation purposes;<sup>8</sup> historic properties when authorized by the county or municipality;<sup>9</sup> and certain working waterfront property.<sup>10</sup>

### **Statewide Homestead Exemption**

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.<sup>11</sup> An additional \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This exemption does not apply to ad valorem taxes levied by school districts.

Section 196.031(5), F.S., provides that a person who is receiving or claiming an ad valorem tax exemption or a tax credit in another state where permanent residency is required as a basis for the granting of that exemption or tax credit is not entitled to a homestead exemption in Florida.

### **Improperly Granted Homestead Exemptions**

Florida provides several property tax exemptions for homestead property.<sup>12</sup> Since Florida's homestead exemption requires that the property owner use the homestead property as a permanent residence, a property owner can only have one homestead exemption.

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buyer would pay a willing seller for the property in an arm's-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>3</sup> See s. 192.001(2) and (16), F.S.

<sup>4</sup> FLA. CONST. art. VII, s. 1(a).

<sup>5</sup> See FLA. CONST. art. VII, s. 4.

<sup>6</sup> Section 193.011(2), F.S.

<sup>7</sup> FLA. CONST. art. VII, s. 4(a).

<sup>8</sup> FLA. CONST. art. VII, s. 4(b).

<sup>9</sup> FLA. CONST. art. VII, s. 4(e).

<sup>10</sup> FLA. CONST. art. VII, s. 4(j).

<sup>11</sup> FLA. CONST. art. VII, s. 6(a).

<sup>12</sup> See, e.g., ss. 196.031, 196.071, 196.075, 196.081, and 196.091, F.S.

If a property appraiser determines that for any year or years within the prior 10 years a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser must send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.<sup>13</sup> The property owner has 30 days to pay the taxes owed, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. If not paid within 30 days of notice, the property appraiser may file a tax lien.<sup>14</sup> The tax lien remains on the property until it is paid or until it expires after 20 years.<sup>15</sup>

If a homestead exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the person improperly receiving the exemption shall not be assessed penalty and interest.<sup>16</sup>

The property appraiser may become aware of a property owner having a homestead within Florida and a homestead exemption in another state when the property owner dies and the estate of the decedent is administered in another state because it is alleged that the decedent was a resident of that other state.<sup>17</sup> In such cases, property appraisers are required to use the lien process described above, unless the circuit court having jurisdiction over the ancillary administration in Florida determines that the decedent was a resident of Florida for the years in question.<sup>18</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 196.031, F.S., to specify that a person must *knowingly and intentionally* receive or claim an ad valorem tax exemption or tax credit in another state to be disqualified from the homestead tax exemption in Florida.

**Section 2** amends s. 196.161, F.S., to provide a process for the circuit court to determine if a person was a permanent resident of this state during the year or years when a homestead exemption, as determined by a property appraiser, was improperly granted. However, as written, this process would apply during *ancillary estate administration* in Florida, and thus does not appear applicable to s. 196.161(1)(b), F.S. (See Section VI. Technical Deficiencies below)

**Section 3** provides an effective date of July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

<sup>13</sup> See ss. 196.011(9)(a), 196.075, and 196.161(1)(b), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 95.091(1)(b), F.S.

<sup>16</sup> *Supra note 12.*

<sup>17</sup> See s. 196.161(1)(a), F.S.

<sup>18</sup> *Id.*

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

**B. Private Sector Impact:**

A property owner may qualify for the homestead exemption in Florida if he or she is *unknowingly and unintentionally* receiving an exemption in another state.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

Section 196.161(1)(a), F.S., codifies the process for a property appraiser to record a tax lien on the estate of a decedent who was improperly granted a homestead exemption prior to death, and *allows a circuit court, during ancillary estate administration in Florida, to determine if a decedent was a Florida resident* during the year(s) in question. Section 196.161(1)(b), F.S., codifies the process to record a similar tax lien on property of living owners. Section 2 of the bill amends s. 196.161(1)(b), F.S., to insert the *ancillary administration* provision found in s. 196.161(1)(a), F.S.; however, the ancillary administration provision does not appear applicable to s. 196.161(1)(b), F.S.

**VII. Related Issues:**

None.



**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 196.031 and 196.161

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Gruters

23-01127-19

2019856\_\_

1 A bill to be entitled  
 2 An act relating to homestead exemptions; amending s.  
 3 196.031, F.S.; specifying that a person must knowingly  
 4 and intentionally receive or claim a certain ad  
 5 valorem tax exemption or credit in another state to be  
 6 disqualified from a certain homestead exemption;  
 7 amending s. 196.161, F.S.; providing that certain  
 8 property is not subject to the assessment of exempted  
 9 taxes, penalties, and interest under certain  
 10 circumstances; providing that, under such  
 11 circumstances, a lien may not be filed or must be  
 12 canceled by the property appraiser; providing an  
 13 effective date.

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

16  
 17 Section 1. Subsection (5) of section 196.031, Florida  
 18 Statutes, is amended to read:

19 196.031 Exemption of homesteads.—

20 (5) A person who is knowingly and intentionally receiving  
 21 or claiming the benefit of an ad valorem tax exemption or a tax  
 22 credit in another state where permanent residency is required as  
 23 a basis for the granting of that ad valorem tax exemption or tax  
 24 credit is not entitled to the homestead exemption provided by  
 25 this section. This subsection does not apply to a person who has  
 26 the legal or equitable title to real estate in Florida and  
 27 maintains thereon the permanent residence of another legally or  
 28 naturally dependent upon the owner.

29 Section 2. Paragraph (b) of subsection (1) of section

Page 1 of 3

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

23-01127-19

2019856\_\_

30 196.161, Florida Statutes, is amended to read:  
 31 196.161 Homestead exemptions; lien imposed on property of  
 32 person claiming exemption although not a permanent resident.—  
 33 (1)  
 34 (b) In addition, upon determination by the property  
 35 appraiser that for any year or years within the prior 10 years a  
 36 person who was not entitled to a homestead exemption was granted  
 37 a homestead exemption from ad valorem taxes, it shall be the  
 38 duty of the property appraiser making such determination to  
 39 serve upon the owner a notice of intent to record in the public  
 40 records of the county a notice of tax lien against any property  
 41 owned by that person in the county, and such property shall be  
 42 identified in the notice of tax lien. Such property which is  
 43 situated in this state shall be subject to the taxes exempted  
 44 thereby, plus a penalty of 50 percent of the unpaid taxes for  
 45 each year and 15 percent interest per annum, unless the circuit  
 46 court having jurisdiction over the ancillary administration in  
 47 this state determines that the person was a permanent resident  
 48 of this state during the year or years when an exemption was  
 49 allowed. If the circuit court makes such a determination, a lien  
 50 may not be filed; or, if filed, the lien must be canceled of  
 51 record by the property appraiser of the county where the real  
 52 estate is located. ~~However,~~ If a homestead exemption is  
 53 improperly granted as a result of a clerical mistake or an  
 54 omission by the property appraiser, the person improperly  
 55 receiving the exemption shall not be assessed penalty and  
 56 interest. Before any ~~such~~ lien under this paragraph may be  
 57 filed, the owner so notified must be given 30 days to pay the  
 58 taxes, penalties, and interest.

Page 2 of 3

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

23-01127-19

2019856\_\_

59

Section 3. This act shall take effect July 1, 2019.



# CourtSmart Tag Report

**Room:** SB 301  
**Caption:** Senate Committee on Community Affairs

**Case No.:**

**Type:**  
**Judge:**

**Started:** 3/12/2019 4:02:34 PM  
**Ends:** 3/12/2019 5:35:18 PM  
**Length:** 01:32:45

4:02:33 PM Meeting Called to Order  
4:02:39 PM Roll Call  
4:02:44 PM Quorum is Present  
4:02:48 PM Tab 2 SB 806  
4:03:04 PM Senator Perry Explains SB 806  
4:03:06 PM Amendment Barcode 693864  
4:03:34 PM Amendment Barcode 693846 is Withdrawn  
4:03:39 PM Question from Senator Farmer  
4:03:51 PM Response from Senator Perry  
4:04:13 PM No Further Questions  
4:04:51 PM Brett Farrell Waives in Support of SB 806  
4:05:07 PM Cam Fentriss Representing Fla. Roofing & Sheet Metal Contractors Assoc. Waives in Support of SB 806  
4:05:15 PM Scott Jenkins Representing Nat'l Utility Contractors Association of Florida Waives in Support  
4:05:18 PM Warren Husband Representing FL Associated General Contractors Council Waives in Support  
4:05:26 PM Jeff Branch Representing the Florida League of Cities Waives Against SB 806  
4:05:36 PM No Debate on SB 806  
4:05:45 PM Senator Perry Waives Close on SB 806  
4:05:48 PM Roll Call on SB 806  
4:05:52 PM SB 806 is Reported Favorably  
4:06:02 PM Tab 3 SB 902  
4:06:07 PM Perry Explains SB 902  
4:06:12 PM No Questions on SB 902  
4:06:31 PM Danielle Scoggins Representing Florida Realtors Waives in Support  
4:06:44 PM French Brown Representing Real Property, Probate, and Trust Law Section of the FL Bar Waives in Support  
4:06:51 PM Cam Fentriss Representing FL Refrigeration and AC Contractors Association Waives in Support  
4:06:57 PM Cam Fentriss Representing FL Roofing & Sheet Metal Contractors Association Waives in Support  
4:07:03 PM Warren Husband Representing FL Florida Associated General Contractors Council Waives in Support  
4:07:09 PM Senator Pizzo with a Question  
4:07:23 PM Response from Senator Perry  
4:07:51 PM Follow-up Question from Senator Pizzo  
4:08:10 PM Response from Senator Perry  
4:08:20 PM No Debate on SB 902  
4:08:27 PM Senator Perry Waives Close on SB 902  
4:08:33 PM Roll Call on SB 902  
4:08:35 PM SB 902 is Reported Favorably  
4:08:42 PM Tab 6 CS/SB 540  
4:09:07 PM Senator Book Introduces Amendment Barcode 237898  
4:13:56 PM No Questions on the Amendment  
4:14:01 PM No Debate on the Amendment  
4:14:09 PM Amendment Barcode 237898 is Adopted  
4:14:12 PM Back on Bill as Amended  
4:14:13 PM No Questions on SB 540  
4:14:17 PM Karen Manno Representing Florida NOW Waives against SB 540  
4:14:27 PM Patricia DeWitt Representing AAUW of Florida Waives in Support of SB 540  
4:14:44 PM Susan Bayley Waives in Support of SB 540  
4:14:52 PM Mary Ann Sines Representing AAUW Waives in Support of SB 540  
4:14:59 PM Laura Fausone Representing FL National Organization for Women Waives Against SB 540  
4:15:09 PM Michael "Mick" McKeown Speaks in Support of SB 540  
4:15:37 PM Terry Sanders Representing Florida NOW Speaks Against SB 540  
4:18:47 PM Kristen Cain Representing SWOP Behind Bars Speaks Against SB 540  
4:20:26 PM Gabrielle Monroe Representing SWOP Behind Bars Speaks Against SB 540

4:27:54 PM Diana Shanks Representing Sex Worker Solidarity Network Speaks Against SB 540  
4:33:11 PM Christine Hanavan, MSW, Representing SWOP Behind Bars and SWOP Orlando Speaks Against SB 540  
4:43:39 PM Dr. Jill McCracken Representing SWOP Behind Bars and SWOP Tampa Bays Speaks Against SB 540  
4:47:52 PM Question from Senator Pizzo  
4:49:24 PM Back and forth between Senator Pizzo and Dr. McCracken  
4:50:23 PM Question from Senator Simmons  
4:51:19 PM Response from Dr. McCracken  
4:52:18 PM Follow-up Question from Senator Simmons  
4:53:13 PM Back and forth between Senator Simmons and Dr. McCracken  
4:54:11 PM Christine Phytoleen Speaks Against SB 540  
5:00:01 PM Patricia Ross from American Association of University Florida Waives in Support of SB 540  
5:01:01 PM Dr. Kay Lee-Smith Representing American Association of Univ. Women Waives in Support of SB 540  
5:01:07 PM Jane Farly Representing AAUW Waives in Support of SB 540  
5:01:12 PM Allen Willett from Pasco County Sheriff's Office Speaks in Support of SB 540  
5:05:52 PM Question from Senator Broxson  
5:06:00 PM Response from Allen Willett  
5:06:50 PM Paula Dulesici Representing AAUW Venice Waives in Support of SB 540  
5:07:46 PM Elizabeth Christensen Representing FL Action Committee & Registry Reform Speaks Against SB 540  
5:08:55 PM Jordan Conners Representing Place of Hope Waives in Support of SB 540  
5:08:59 PM Samantha Padgett Representing the Florida Restaurant & Lodging Association Waives in Support of SB 540  
5:09:09 PM Steve Geller Representing Broward County Speaks in Support of SB 540  
5:12:09 PM Chief Gary Hester Representing FL Police Chiefs Association Speaks in Support of SB 540  
5:18:00 PM Question from Senator Pizzo  
5:18:46 PM Response from Senator Book  
5:18:56 PM Follow-up Question from Senator Pizzo  
5:19:32 PM Response from Senator Book  
5:19:41 PM Back and forth between Senator Book and Chair Flores  
5:20:08 PM Question from Senator Pizzo  
5:20:42 PM Response from Senator Book  
5:21:27 PM Senator Broxson in Debate  
5:22:53 PM Senator Book Closes on SB 540  
5:25:54 PM Roll Call on CS/SB 540  
5:26:02 PM CS/SB 540 is Reported Favorably  
5:26:11 PM Tab 4 SB SJR 326  
5:26:28 PM Senator Brandes Explains SJR 326  
5:27:20 PM No Questions on SJR 326  
5:27:20 PM Albert Balido Representing FL Association of Property Appraisers Waives in Support of SJR 326  
5:27:25 PM Loren Levy Representing Property Appraiser's Assoc. of Florida Waives in Support of SJR 326  
5:27:40 PM No Debate on SJR 326  
5:27:46 PM Senator Brandes Closes on SJR 326  
5:27:59 PM Roll Call on SJR 326  
5:28:07 PM SJR 326 is Reported Favorably  
5:28:15 PM Tab 5 SB 324  
5:28:15 PM Senator Brandes Explains SB 324  
5:28:20 PM Senator Brandes Introduces Amendment Barcode 244756  
5:28:37 PM Amendment Barcode 244756 is Adopted  
5:28:42 PM Albert Balido Representing FL Association of Property Appraisers Waives in Support of SB 324  
5:28:50 PM No Debate on SB 324  
5:28:54 PM Senator Brandes Waives Close on SB 324  
5:28:58 PM Roll Call on SB 324  
5:29:08 PM SB 324 is Reported Favorably  
5:29:17 PM Tab 1 SB 728  
5:29:27 PM Senator Simmons Explains SB 728  
5:30:05 PM No Questions on SB 728  
5:30:10 PM Cheryl Stuart Representing the Association of Florida Community Developers Waives in Support of SB 728  
5:30:17 PM David Ramba Representing Neal Communities Waives in Support of SB 728  
5:30:22 PM No Debate on SB 728  
5:30:27 PM Senator Simmons Waives Close on SB 728  
5:30:31 PM Roll Call on SB 728  
5:30:36 PM SB 728 is Reported Favorably

**5:30:46 PM** Tab 7 SB 568  
**5:30:52 PM** Senator Pizzo Explains SB 568  
**5:31:09 PM** Senator Pizzo Explains Amendment Barcode 865756  
**5:31:21 PM** No Questions on the Amendment  
**5:31:32 PM** Back on Bill as Amended  
**5:31:32 PM** Amendment Barcode 865756 is Adopted  
**5:31:32 PM** No Questions on SB 568  
**5:31:37 PM** Albert Balido Representing the Florida Assoc. of Property Appraisers Waives in Support of SB 568  
**5:31:51 PM** No Debate on SB 568  
**5:31:55 PM** Roll Call on SB 568  
**5:31:59 PM** SB 568 is Reported Favorably  
**5:32:05 PM** Tab 8 SB 856  
**5:32:12 PM** Senator Pizzo Explains SB 856  
**5:32:52 PM** No Questions on SB 856  
**5:32:54 PM** No Debate on SB 856  
**5:32:58 PM** Senator Pizzo Waives Close on SB 856  
**5:33:04 PM** Roll Call on SB 856  
**5:33:08 PM** SB 856 is Reported Favorably  
**5:33:18 PM** Senator Simmons Moves to Adjourn  
**5:33:32 PM** Meeting is Adjourned