

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Montford, Chair
Senator Gainer, Vice Chair

MEETING DATE: Monday, April 17, 2017
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Montford, Chair; Senator Gainer, Vice Chair; Senators Gibson, Hutson, Latvala, Passidomo, Rodriguez, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 236 Lee (Identical H 855, H 6023, Compare CS/CS/H 7005)	Sports Development; Repealing provisions relating to state funding for sports facility development by a unit of local government, or by a certified beneficiary or other applicant, on property owned by the local government, etc. CM 03/13/2017 Temporarily Postponed CM 04/17/2017 Unfavorable ATD AP RC	Unfavorable Yeas 3 Nays 3
2	CS/SB 570 Children, Families, and Elder Affairs / Rouson (Compare CS/CS/H 23, CS/CS/CS/H 581, CS/CS/H 1121, S 1016, CS/S 1044)	Public Assistance; Requiring CareerSource Florida, Inc., to submit a detailed annual report on certain information for individuals subject to mandatory work requirements who receive temporary cash or food assistance; requiring the Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., and the Department of Children and Families, to develop and implement a work plan agreement for participants in the temporary cash assistance program, etc. CF 04/03/2017 Fav/CS CM 04/17/2017 Fav/CS AHS AP	Fav/CS Yeas 8 Nays 0
3	SB 1032 Mayfield (Similar CS/H 1029)	Unfair Insurance Trade Practices; Revising provisions to permit a licensed insurer or its agent to give promotional or advertising items under a certain value, etc. BI 04/03/2017 Favorable CM 04/17/2017 Fav/CS RC	Fav/CS Yeas 7 Nays 0
4	CS/SB 1298 Banking and Insurance / Garcia (Similar CS/H 1081)	Mortgage Lending ; Revising the definition of the term "mortgage loan"; providing a definition for the term "hold himself or herself out to the public as being in the mortgage lending business", etc. BI 03/27/2017 Fav/CS CM 04/17/2017 Favorable RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, April 17, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 1678 Transportation / Garcia (Compare H 1047, CS/H 1175)	Motor Vehicle Applicants, Licensees, and Dealers; Providing that a motor vehicle dealer who constructs or alters sales or service facilities in reliance upon a program or incentive offered by an applicant or licensee is deemed to be in compliance with certain requirements for a specified period; specifying eligibility for benefits under a revised or new program, standard, policy, bonus, incentive, rebate, or other benefit; authorizing denial, suspension, or revocation of the license of an applicant or licensee who establishes certain performance measurement criteria that have a material or adverse effect on motor vehicle dealers, etc. TR 03/22/2017 Temporarily Postponed TR 03/28/2017 Temporarily Postponed TR 04/04/2017 Fav/CS CM 04/17/2017 Favorable RC	Favorable Yeas 7 Nays 0
6	SB 822 Hutson (Identical H 473)	Intrusion and Burglar Alarms; Providing an exclusion from the requirement for a verification call prior to alarm dispatch for specified premises, etc. RI 04/04/2017 Favorable RI 04/06/2017 CM 04/17/2017 Favorable RC	Favorable Yeas 8 Nays 0
7	SB 1306 Montford (Similar H 1433, Compare H 889, CS/CS/H 7005, S 1076, S 1110)	Florida Sports Foundation; Requiring the Department of Economic Opportunity to contract with a direct-support organization to promote the sports industry and the participation of residents in certain athletic competitions in this state and to promote the state as a host for certain athletic competitions; requiring the department to establish a direct-support organization known as the "Florida Sport Foundation," rather than authorizing the Office of Tourism, Trade, and Economic Development to authorize a direct-support organization, to assist the department in certain promotion and development activities, etc. CM 04/17/2017 Fav/CS ATD AP RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Commerce and Tourism

Monday, April 17, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 1576 Gibson (Similar H 1345, Compare H 1393)	Florida Film Investment Corporation; Creating the Florida Film Investment Corporation and stating its purpose; authorizing the corporation to make investments in scripted productions in the state subject to certain conditions; requiring the board to adopt criteria that give preference to certain productions; requiring the board to create the Florida Film Investment Account for specified purposes, etc. CM 04/17/2017 Fav/CS ATD AP	Fav/CS Yeas 6 Nays 2

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Board of Directors, Enterprise Florida, Inc.			
9	Rood, John Darrell (St. Augustine)	09/30/2019	Recommend Confirm Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Other Related Meeting Documents			

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 Commerce and Tourism

BILL: SB 236

INTRODUCER: Senator Lee

SUBJECT: Sports Development

DATE: April 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Unfavorable
2.			ATD	
3.			AP	
4.			RC	

I. Summary:

SB 236 repeals the Sports Development program created in 2014, under s. 288.11625, F.S., which thus far has not been funded by the Legislature. The bill also repeals law related to program funding and reporting requirements.

The bill takes effect July 1, 2017.

II. Present Situation:

Professional Sports in Florida

Florida currently has 10 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League (NFL), beginning in 1966 as part of the now-defunct American Football League. The newest major professional sports team in the state is the Orlando Lions (Orlando City Soccer Club) in Major League Soccer (MLS). The club became the MLS's 21st franchise in 2015. Below is a summary table of information on major professional sports franchises in Florida:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Hard Rock Stadium (previously Sun Life Stadium)	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade

Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Amalie Arena (previously Tampa Bay Times Forum)	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas
Orlando City Soccer Club/ "Lions"	Soccer	MLS	2015	Orlando City Stadium	2017	Orange

In addition to the 10 major professional sports teams, Florida is also home to the MLB’s Spring Training Grapefruit League, with 15 teams holding preseason training and exhibition games in the state.¹

State Incentives for Professional Sports Franchises

Professional Sports Franchise Program

The Professional Sports Franchise program provides the procedure by which professional sports franchises in Florida may be certified to receive state sales and use tax revenue to pay for the construction or renovation of a facility for a new or retained professional sports franchise.² Local governments, non-profit, and for-profit entities may apply to the program. Approved applicants are eligible to receive annual payments totaling \$2,000,004 from the state for not more than 30 years.³ The Department of Revenue (DOR) disburses the payments. The program is limited to eight certified facilities at one time.⁴

Currently, there are eight certified new or retained professional sports franchise facilities in Florida receiving distributions under the program. The facilities and the payment distribution for each are:

¹ For general information related to professional sports in Florida, see Florida Sports Foundation at <http://www.flasports.com/> (last visited March 8, 2017).

² Section 288.1162, F.S.

³ Section 212.20(6)(d)6.b., F.S.

⁴ Section 288.1162(6), F.S.

Facility name	Certified entity	Franchise	First Payment	Contract Expiration	Total payments as of March 2017
Hard Rock Stadium (previously Sun Life Stadium)	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins ⁵	06/1994	06/2023	\$47,500,095
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/1994	05/2024	\$45,666,758
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	07/1995	06/2025	\$43,500,087
Amelie Arena (previously Tampa Bay Times Forum)	Tampa Bay Sports Authority	Tampa Bay Lightning	09/1995	08/2025	\$43,166,753
BB&T Center	Broward County	Florida Panthers	08/1996	07/2026	\$41,333,416
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/1997	12/2026	\$40,500,081
American Airlines Arena	BPL, LTD	Miami Heat	03/1998	03/2028	\$38,000,076
Amway Center	City of Orlando	Orlando Magic	02/2008	01/2038	\$18,333,370

(Information from the Department of Revenue)⁶

Sports Development Program

In 2014, the Legislature created the Sports Development program that authorizes distributions of state sales and use tax revenue to fund professional sports franchise facilities, up to an annual cap of \$13 million for all certified applicants.⁷ Applicants are evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. A facility cannot be a recipient of this program while receiving any distributions under another state sports facility program. Distributed funds are used for the construction or improvement of a professional sports facility. The maximum annual distribution for a single facility is \$3 million, and distributions can be made for up to 30 years for a potential maximum amount of \$90 million per certified applicant. No funding has been approved by the Legislature for this program.

The professional sport franchises that can participate in the program include the National Football League, the National Hockey League, the National Basketball League, Major and Minor League Baseball, Major League Soccer, The North American Soccer League, the Professional Rodeo Cowboys Association, and a promoter or host of a signature event administered by the

⁵ The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

⁶ Department of Revenue, *Professional Sports Franchise distributions by Fiscal Year*, (March 8, 2017) (on file with the Senate Commerce and Tourism Committee).

⁷ Sections 212.20(6)(d)6.f. and 288.11625, F.S.

Breeders' Cup Limited or the National Association of Stock Car Auto Racing (NASCAR).⁸ In 2015 and 2016, three applicants were recommended by the DEO but distributions were not approved by the Legislature in either year. The facilities that were recommended include the Jacksonville Jaguars' EverBank Field, the Miami Dolphins' Hard Rock Stadium, and the Daytona International Speedway.⁹

Reports

Reports on both programs conducted by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of Economic and Demographic Research (EDR) is required every three years, according to a timetable set forth in statute.¹⁰ The Sports Development program in s. 288.11625 is scheduled for its first report on January 1, 2018.

Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. Additionally, s. 212.20, F.S., contains statutory direction for the schedule of distributions approved pursuant to ss. 288.1162 and 288.11625, F.S.

Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program is the largest source of state-shared revenue received by local governments. The program provides ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.¹¹ A local government may also pledge funds from the program for payment of principal and interest on any capital project.¹² Local Government Half-cent Sales Tax Program funds received by a county may be allocated for the purposes of ss. 288.1162 and 288.11625, F.S.

III. Effect of Proposed Changes:

SB 236 repeals s. 288.11625, F.S., the Sports Development program. The bill removes the ability of a qualified applicant to receive state funding for the construction, reconstruction, renovation, or improvement of professional sports facilities under the program.

The bill also amends:

- Section 212.20(6)(d)6.f., F.S., repealing language directing the Department of Revenue to make distributions related to s. 288.11625, F.S.;
- Sections 218.64(2) and 218.64(3)(c), F.S., repealing language authorizing the use of local government half-cent sales tax revenue relating to s. 288.11625, F.S.; and

⁸ Section

⁹ Law360, *3 Florida Stadiums Clear Hurdle to Renovation Tax Funds*, <https://www.law360.com/articles/754061/3-florida-stadiums-clear-hurdle-to-renovation-tax-funds>, (last visited March 8, 2017).

¹⁰ Section 288.0001, F.S.

¹¹ Office of Economic and Demographic Research, *2016 Local Government Financial Information Handbook*, (November 2016), available at: <http://edr.state.fl.us/Content/local-government/reports/lgfih16.pdf>, (last visited on March 8, 2017).

¹² Section 218.64, F.S.

- Section 288.0001(2)(c), F.S., repealing language directing the OPPAGA and the EDR to provide an analysis of the program under s. 288.11625, F.S., every three years.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. No state funding was authorized and no applicants were ever approved by the Legislature under the program being repealed.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20, 218.64, and 288.0001.

This bill repeals section 288.11625 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.

By Senator Lee

20-00376-17

2017236__

A bill to be entitled

An act relating to sports development; repealing s. 288.11625, F.S., relating to state funding for sports facility development by a unit of local government, or by a certified beneficiary or other applicant, on property owned by the local government; amending ss. 212.20, 218.64, and 288.0001, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 288.11625, Florida Statutes, is repealed.

Section 2. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.9744 percent of the amount remitted by a sales tax dealer located

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within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.0966 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0810 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3653 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for

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62 Municipalities and the former Municipal Financial Assistance
 63 Trust Fund in state fiscal year 1999-2000, each municipality
 64 shall receive an amount proportionate to the amount it was due
 65 in state fiscal year 1999-2000.

66 6. Of the remaining proceeds:

67 a. In each fiscal year, the sum of \$29,915,500 shall be
 68 divided into as many equal parts as there are counties in the
 69 state, and one part shall be distributed to each county. The
 70 distribution among the several counties must begin each fiscal
 71 year on or before January 5th and continue monthly for a total
 72 of 4 months. If a local or special law required that any moneys
 73 accruing to a county in fiscal year 1999-2000 under the then-
 74 existing provisions of s. 550.135 be paid directly to the
 75 district school board, special district, or a municipal
 76 government, such payment must continue until the local or
 77 special law is amended or repealed. The state covenants with
 78 holders of bonds or other instruments of indebtedness issued by
 79 local governments, special districts, or district school boards
 80 before July 1, 2000, that it is not the intent of this
 81 subparagraph to adversely affect the rights of those holders or
 82 relieve local governments, special districts, or district school
 83 boards of the duty to meet their obligations as a result of
 84 previous pledges or assignments or trusts entered into which
 85 obligated funds received from the distribution to county
 86 governments under then-existing s. 550.135. This distribution
 87 specifically is in lieu of funds distributed under s. 550.135
 88 before July 1, 2000.

89 b. The department shall distribute \$166,667 monthly to each
 90 applicant certified as a facility for a new or retained

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91 professional sports franchise pursuant to s. 288.1162. Up to
 92 \$41,667 shall be distributed monthly by the department to each
 93 certified applicant as defined in s. 288.11621 for a facility
 94 for a spring training franchise. However, not more than \$416,670
 95 may be distributed monthly in the aggregate to all certified
 96 applicants for facilities for spring training franchises.
 97 Distributions begin 60 days after such certification and
 98 continue for not more than 30 years, except as otherwise
 99 provided in s. 288.11621. A certified applicant identified in
 100 this sub-subparagraph may not receive more in distributions than
 101 expended by the applicant for the public purposes provided in s.
 102 288.1162(5) or s. 288.11621(3).

103 c. Beginning 30 days after notice by the Department of
 104 Economic Opportunity to the Department of Revenue that an
 105 applicant has been certified as the professional golf hall of
 106 fame pursuant to s. 288.1168 and is open to the public, \$166,667
 107 shall be distributed monthly, for up to 300 months, to the
 108 applicant.

109 d. Beginning 30 days after notice by the Department of
 110 Economic Opportunity to the Department of Revenue that the
 111 applicant has been certified as the International Game Fish
 112 Association World Center facility pursuant to s. 288.1169, and
 113 the facility is open to the public, \$83,333 shall be distributed
 114 monthly, for up to 168 months, to the applicant. This
 115 distribution is subject to reduction pursuant to s. 288.1169. A
 116 lump sum payment of \$999,996 shall be made after certification
 117 and before July 1, 2000.

118 e. The department shall distribute up to \$83,333 monthly to
 119 each certified applicant as defined in s. 288.11631 for a

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 120 facility used by a single spring training franchise, or up to
 121 \$166,667 monthly to each certified applicant as defined in s.
 122 288.11631 for a facility used by more than one spring training
 123 franchise. Monthly distributions begin 60 days after such
 124 certification or July 1, 2016, whichever is later, and continue
 125 for not more than 20 years to each certified applicant as
 126 defined in s. 288.11631 for a facility used by a single spring
 127 training franchise or not more than 25 years to each certified
 128 applicant as defined in s. 288.11631 for a facility used by more
 129 than one spring training franchise. A certified applicant
 130 identified in this sub-subparagraph may not receive more in
 131 distributions than expended by the applicant for the public
 132 purposes provided in s. 288.11631(3).

133 ~~f. Beginning 45 days after notice by the Department of~~
 134 ~~Economic Opportunity to the Department of Revenue that an~~
 135 ~~applicant has been approved by the Legislature and certified by~~
 136 ~~the Department of Economic Opportunity under s. 288.11625 or~~
 137 ~~upon a date specified by the Department of Economic Opportunity~~
 138 ~~as provided under s. 288.11625(6)(d), the department shall~~
 139 ~~distribute each month an amount equal to one-twelfth of the~~
 140 ~~annual distribution amount certified by the Department of~~
 141 ~~Economic Opportunity for the applicant. The department may not~~
 142 ~~distribute more than \$7 million in the 2014-2015 fiscal year or~~
 143 ~~more than \$13 million annually thereafter under this sub-~~
 144 ~~subparagraph.~~

145 f.g. Beginning December 1, 2015, and ending June 30, 2016,
 146 the department shall distribute \$26,286 monthly to the State
 147 Transportation Trust Fund. Beginning July 1, 2016, the
 148 department shall distribute \$15,333 monthly to the State

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 149 Transportation Trust Fund.
 150 7. All other proceeds must remain in the General Revenue
 151 Fund.
 152 Section 3. Subsection (2) and paragraph (c) of subsection
 153 (3) of section 218.64, Florida Statutes, are amended to read:
 154 218.64 Local government half-cent sales tax; uses;
 155 limitations.—
 156 (2) Municipalities shall expend their portions of the local
 157 government half-cent sales tax only for municipality-wide
 158 programs, ~~for reimbursing the state as required pursuant to s.~~
 159 ~~288.11625,~~ or for municipality-wide property tax or municipal
 160 utility tax relief. All utility tax rate reductions afforded by
 161 participation in the local government half-cent sales tax shall
 162 be applied uniformly across all types of taxed utility services.
 163 (3) Subject to ordinances enacted by the majority of the
 164 members of the county governing authority and by the majority of
 165 the members of the governing authorities of municipalities
 166 representing at least 50 percent of the municipal population of
 167 such county, counties may use up to \$3 million annually of the
 168 local government half-cent sales tax allocated to that county
 169 for any of the following purposes:
 170 ~~(e) Reimbursing the state as required under s. 288.11625.~~
 171 Section 4. Paragraph (e) of subsection (2) of section
 172 288.0001, Florida Statutes, is amended to read:
 173 288.0001 Economic Development Programs Evaluation.—The
 174 Office of Economic and Demographic Research and the Office of
 175 Program Policy Analysis and Government Accountability (OPPAGA)
 176 shall develop and present to the Governor, the President of the
 177 Senate, the Speaker of the House of Representatives, and the

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178 chairs of the legislative appropriations committees the Economic
179 Development Programs Evaluation.

180 (2) The Office of Economic and Demographic Research and
181 OPPAGA shall provide a detailed analysis of economic development
182 programs as provided in the following schedule:

183 ~~(e) Beginning January 1, 2018, and every 3 years~~
184 ~~thereafter, an analysis of the Sports Development Program~~
185 ~~established under s. 288.11625.~~

186 Section 5. This act shall take effect July 1, 2017.

187



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Senate Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 13th, 2017

I respectfully request that **Senate Bill #236**, relating to Sports Development, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17
Meeting Date

236
Bill Number (if applicable)

Topic Sports Development

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Call St.
Street

Tallahassee, FL 32301
City State Zip

Phone 850-321-9386

Email fccep@yahoo.com

Speaking: For Against Information

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

Representing Florida Center for Fiscal & Economic Policy

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 _____

236
Bill Number (if applicable)

Topic _____ ✓

Name Andrew Hosek

Amendment Barcode (if applicable) _____

Job Title Policy Analyst

Address 200 W College Ave

Phone _____

Street

Tallahassee
City

FL
State

Zip

Email ahosek@afpq.org

Speaking: For Against Information

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

Representing Americans for Prosperity

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
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 Commerce and Tourism

BILL: CS/CS/SB 570

INTRODUCER: Commerce and Tourism Committee; Children, Families, and Elder Affairs Committee; and Senator Rouson

SUBJECT: Public Assistance

DATE: April 18, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 570 makes changes to the state's temporary cash assistance (TCA) program to improve recipients' compliance with work requirements. The bill requires agencies administering the program to develop a work plan agreement with each recipient to ensure the program's work activity requirements are understood. The bill imposes a fee for the replacement of electronic benefit cards under certain circumstances. The bill clarifies state law to prohibit the payment of benefits under the Relative Caregiver Program when both the parent and the child live with the caregiver.

The bill requires CareerSource Florida, Inc., to include additional information in its annual report relating to work activity and employment outcomes for TCA recipients. The bill also directs the Office of Program Policy Analysis and Government Accountability to conduct a study of workforce development efforts for recipients of certain public assistance benefits.

The bill creates a pilot program in Pinellas County to assist Temporary Assistance for Needy Families (TANF) recipients in finding and securing stable and productive employment. The Pinellas Opportunity Council, Inc., is tasked with administering the pilot program, and assisting recipients in developing return-to-work plans with the goal of reemployment. The bill appropriates approximately \$300,000 in nonrecurring funds to the TANF Reemployment Pilot Program in Fiscal Year 2017-2018.

II. Present Situation:

Temporary Assistance for Needy Families

The federal Temporary Assistance for Needy Families (TANF) program was created in the 1996 welfare reform law, as part of the Personal Responsibility and Work Opportunity Reconciliation Act.¹ The TANF program operates as a block grant, which provides federal funding to states for a wide range of benefits and activities to help support indigent families. TANF is a form of public assistance, best known for providing cash assistance to families with children living in poverty. The purpose of TANF is to:

- Provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- End the dependency of needy parents on government benefits through work, job preparation, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies; and
- Encourage the formation and maintenance of two-parent families.²

Florida's Temporary Cash Assistance Program

The Department of Children and Families (DCF) is the state agency responsible for the administration of federal social service funds, including the block grant under the TANF program. The DCF is the recipient of the TANF block grant and administers the funds through the state's Temporary Cash Assistance (TCA) program.³ The TCA program is a form of public assistance⁴ that provides cash assistance benefits to families with children that meet certain technical, income, and asset requirements.⁵

Eligibility

To be eligible for TCA, the DCF must determine that a family meets both financial and non-financial requirements established in state law.⁶ In general, families must include a child living in the home (or a pregnant woman) and be residents of Florida.⁷ Children under age 5 must be up to date with childhood immunizations and children age 6 to 18 must attend school and parents or caretakers must participate in school conferences. TCA recipients must have a gross family income equal to, or less than, 185 percent of the federal poverty level⁸ and the family may not have more than \$2,000 of liquid and nonliquid resources, excluding licensed vehicles needed for individuals subject to the work requirement that do not exceed a combined value of \$8,500.⁹

¹ Pub. L. No. 104-193.

² U.S. Department of Health and Human Services, see <http://www.acf.hhs.gov/programs/ofa/programs/tanf/about> (last visited April 11, 2017).

³ Department of Children and Families, *Temporary Assistance for Needy Families: An Overview of Program Requirements* (Jan. 2016), available at <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited April 11, 2017).

⁴ "Public assistance" means benefits paid on the basis of the temporary cash assistance, food assistance, Medicaid, or optional state supplementation program. Section 414.0252(10), F.S.

⁵ See s. 414.045, F.S.

⁶ Section 414.095, F.S.

⁷ *Id.*

⁸ Section 414.085, F.S.

⁹ Section 414.075, F.S.

Florida law specifies two major categories of families who may be eligible for TCA, those families that are work-eligible, and those child-only cases.¹⁰ While many of the basic eligibility requirements apply to these categories, there are some distinctions between the categories in terms of requirements and restrictions.

Child-Only Cases

There are two types of child-only cases. The first is where the child has not been adjudicated dependent, but is living with a relative or still resides with a custodial parent who is not eligible to receive TCA.¹¹ These child-only cases also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to their immigration status.¹² In the majority of situations, the child is living with a grandparent or other relative.¹³ Grandparents or other relatives receiving child-only payments are not subject to the TCA work requirements or time limits.

The second type of child-only case refers to families in the Relative Caregiver Program, as provided in s. 39.5085, F.S.¹⁴ In these cases, the child has been adjudicated dependent due to the original parents' inability to care for the child and the court has placed the child with a relative or nonrelative caregiver.¹⁵ These caregivers are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving Relative Caregiver payments are not subject to the TCA work requirements or time limits.

Work-Eligible Cases

Work-eligible cases are those in which an adult, or teen head of household, is generally subject to the TCA work activity requirements and time limits in addition to the eligibility requirements.¹⁶ Within the work-eligible cases, there are single parent families and two-parent families. Single parent families can receive cash assistance for the parent and the children. Two-parent families are eligible on the same basis as single-parent families, except the work requirement for two-parent families requires a higher number of work participation hours per week.¹⁷

Work Requirements

Adults in work-eligible cases must work or participate in work-related activities for a specified number of hours per week, depending on the number of work-eligible adults in the family and

¹⁰ Section 414.045(1), F.S.

¹¹ See s. 445.045(1)(b), F.S.

¹² *Id.*

¹³ Department of Children and Families, *supra* note 3.

¹⁴ See s. 445.045(1)(b), F.S.

¹⁵ Section 39.5085(2)(a), F.S.

¹⁶ Section 414.045, F.S.

¹⁷ Department of Children and Families, *supra* note 3.

the age of the children.¹⁸ The following work activities, based on federal law,¹⁹ may be used individually or in combination, to satisfy the TCA work requirements:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- On-the-job training;
- Community service programs;
- Work experience;
- Job search and job readiness assistance;
- Vocational educational training;
- Job skills training directly related to employment;
- Education directly related to employment;
- Satisfactory attendance at a secondary school or a course of study leading to a high school equivalency diploma; and
- Providing child care services.²⁰

The following chart represents the number of hours work-eligible TCA recipients are required to participate in work or work-related activities:

Type of Family	Work Participation Hours Required
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities ²¹

Time Limits

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of TCA benefits to not more than 48 cumulative months of assistance, unless a participant qualifies for a hardship exemption to the time limit.²² Hardship exemptions are determined by the DCF in cooperation with CareerSource Florida, Inc. (CareerSource Florida).

¹⁸ See ss. 414.095 and 445.024, F.S.

¹⁹ Federal law includes “core activities” that may be used to satisfy any of the weekly participation requirements and “supplemental” activities that must be combined with a “core” activity to satisfy the work activity requirement.

²⁰ Section 445.024(1), F.S.

²¹ Department of Children and Families, *supra* note 3.

²² Section 414.105, F.S.

Individuals determined to qualify for a hardship exemption may fall within a range of hardship criteria listed under s. 414.405, F.S., and may receive TCA for a duration of time longer than the 48 cumulative months. Extra time may be considered for individuals with significant barriers to employment, individuals with diligent participation and an inability to become employed, or individuals caring for a disabled family member.²³

Payment of Temporary Cash Assistance

The DCF provides TCA to eligible families by means of electronic benefits transfer (EBT).²⁴ Each eligible family is given an account under the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) where monthly TCA benefits are deposited. First-time participants are mailed an EBT card and a brochure containing instructions for using the card. If an EBT card is lost or expired, the participant is required to contact EBT Customer Service and request a replacement card.²⁵

The amount of TCA received by a family depends on the family size and whether the family must pay for housing. Florida law establishes a standard for TCA amounts based on whether a family has no obligation to pay for shelter, has a shelter obligation less than or equal to \$50, or has a shelter obligation greater than \$50.²⁶ The following maximum monthly amounts are specified in s. 414.095(10), F.S.:

Family Size	No Obligation To Pay for Shelter	Shelter Costs Less than \$50	Shelter Costs Greater than \$50²⁷
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426 ²⁸

Relative Caregiver Program

Under current law, after a child has been adjudicated dependent and placed with a caregiver, both relative and nonrelative caregivers may be eligible to receive TCA benefits under the Relative Caregiver Program.²⁹ Generally, these caregivers are eligible for a payment that is higher than the typical child-only payment, but less than the payment for licensed foster care. Only the child's countable income and age are used to determine TCA eligibility and benefit amounts.³⁰

²³ *Id.*

²⁴ Section 402.82, F.S.

²⁵ Department of Children and Families, *EBT Card Issuance*, available at <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/ebt-card-issuance> (last visited April 12, 2017).

²⁶ Section 414.095(10), F.S.

²⁷ A homeless family qualifies for the same level of assistance as a family with a shelter obligation great than \$50. *Id.*

²⁸ Florida law calculates the amounts for each assistance level for family sizes up to 10 persons. *See* s. 414.095(10), F.S.

²⁹ Section 39.5085, F.S.

³⁰ Rule 65C-28.008(2)(g), F.A.C.

The maximum monthly payments for children with no countable income are based on the age of the child as follows:

- Age 0 through 5 - \$242 per child;
- Age 6 through 12 - \$249 per child; and
- Age 13 through 17 - \$298 per child.

Florida's Workforce Development System

The Department of Economic Opportunity (DEO), CareerSource Florida, and 24 local workforce development boards (LWDBs) act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

The DEO serves as Florida's lead workforce agency³¹ and is responsible for the fiscal and administrative affairs of the workforce development system.³² The DEO is also responsible for financial and performance reports, which are provided to the U.S. Department of Labor and other federal organizations.³³ The DEO provides one-stop program support to the LWDBs through guidance, training, and technical assistance.³⁴

CareerSource Florida is a not-for-profit corporation that assists the DEO with state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services.³⁵ CareerSource Florida is responsible for developing and implementing a 5-year state plan for the delivery of workforce services and is required to provide an annual report containing information regarding its operations, accomplishments, and audits.³⁶

The DEO and CareerSource Florida delivers Florida's workforce development services through the LWDBs and nearly 100 one-stop career centers.³⁷ One-stop career service centers provide Floridians local access to available workforce services, including job placement, career counseling, and skills training.³⁸

Workforce Development System and TCA Work Requirements

The DCF collaborates with CareerSource Florida to assist TCA recipients in complying with the work requirements under the TCA program.³⁹ The local workforce development boards assist TCA participants by providing employment training, assistance in securing employment, and determine whether an applicant family has significant barriers to employment that may be corrected. The local workforce development boards also document the TCA recipient's work

³¹ Primarily through its Division of Workforce Services. *See* s. 20.60, F.S.

³² Section 445.009(3)(c), F.S.

³³ *See* s. 20.60, F.S.

³⁴ Section 20.60(4)(c), F.S.

³⁵ *See* s. 445.004, F.S.

³⁶ The report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by December 1 each year. *See* s. 445.004, F.S.

³⁷ Florida Department of Economic Opportunity, *CareerSource Florida Center Directory*, <http://www.floridajobs.org/onestop/onestopdir/> (last visited April 11, 2017).

³⁸ *See* s. 445.009, F.S.

³⁹ Section 445.024, F.S.

activity and report such information to DCF.⁴⁰ If a TCA participant does not meet his or her work requirements, the DCF may sanction the participant by reducing or eliminating cash assistance.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 445.004, F.S., to require CareerSource Florida to include additional information in its annual report. The bill requires the annual report to include information regarding participant statistics and employment outcomes, by program, for individuals subject to mandatory work requirements due to TCA or food assistance benefits provided under ch. 414, F.S.

For each local workforce development board, the annual report must include the number of individuals served, services received, activities in which individuals participated, and the types of employment secured. For individuals securing employment, the annual report must also include information as to how many individuals remained in an assistance program and how many individuals exited a program due to employment. The bill also requires CareerSource Florida, Inc., to include in the annual report the participant's employment status at 3 months, 6 months, and 12 months after exiting the program, for the past 3 years.

Section 2 amends s. 445.024, F.S., relating to work requirements for TCA participants. The bill requires the Department of Economic Opportunity, CareerSource Florida, Inc., and the DCF to develop a work plan agreement that requires a TCA participant to assent in writing that he or she has been informed in plain language what is expected of the participant, under what circumstances the participant could be sanctioned for noncompliance, and what potential penalties could be imposed for noncompliance with work requirements. Under the work plan agreement, the agencies must work with the participant to develop strategies to overcome obstacles limiting the participants' ability to comply with the work requirements.

Section 3 amends s. 402.82, F.S., relating to the payment of cash assistance through EBT cards. The bill requires the DCF to impose a fee prior to replacing an EBT card if a participant requests a replacement EBT card for the fifth time within a 12-month period. Any subsequent requests for EBT card replacement within a 12-month period are also subject to the fee. The bill provides the EBT card replacement fee must be equal to the cost of replacing the EBT card, and the bill allows the fee to be deducted from the participant's public assistance benefits. The bill allows the DCF to waive the replacement fee upon a showing of good cause, such as a card malfunction or extreme financial hardship.

Section 4 amends s. 39.5085, F.S., relating to the Relative Caregiver Program. The bill requires the DCF to implement the Relative Caregiver Program. The bill also prohibits financial assistance to be provided under the program if the parent of the child lives with the relative caregiver, unless the parent is a minor and the both the minor parent and the child have been adjudicated dependent and are living with the caregiver. The bill directs payments under the

⁴⁰ See ss. 445.007, 445.017, and 445.018, F.S.

⁴¹ Section 414.065, F.S.

program to be terminated no later than the first day of the following month after the parent moves into the caregiver's home.

Section 5 directs the Legislature's Office of Program Policy Analysis and Government Accountability to conduct a study of local workforce development boards to determine what barriers prevent participants from complying with mandatory work requirements under the Supplemental Nutrition Assistance Program and the Temporary Assistance for Needy Families cash assistance program. The study must include data on the reasons applicants provide for being noncompliant, the assistance offered to participants, and the number of sanctions applied. The bill requires OPPAGA to submit a report with its findings and recommendations to the Governor and the Legislature by November 1, 2017.

Section 6 creates the TANF Reemployment Pilot Program in Pinellas County to assist TANF recipients in finding and securing stable and productive employment. The Pinellas Opportunity Council, Inc., is tasked with administering the pilot program and assisting TANF recipients in developing return-to-work plans to achieve reemployment.

Section 7 appropriates funds to the TANF Reemployment Pilot Program. For Fiscal Year 2017-2018, the bill appropriates \$150,000 in nonrecurring funds from the General Revenue Fund and \$150,000 in nonrecurring funds from the Federal Grants Trust Fund to the TANF Reemployment Pilot Program.

Section 8 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill imposes a fee on TCA participants when their EBT card is replaced five or more times in one year. The cost of the replacement card will be deducted from the participant's cash assistance benefits.

B. Private Sector Impact:

Participants in the TCA program who lose or have their EBT cards stolen five or more times in one year will have to pay for the replacement card.

C. Government Sector Impact:

For Fiscal Year 2017-2018, the bill appropriates \$150,000 in nonrecurring funds from the General Revenue Fund and \$150,000 in nonrecurring funds from the Federal Grants Trust Fund for the TANF Reemployment Pilot Program.

The DCF may incur costs associated with system programming to implement the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provision creating the pilot program does not specify any accountability or contract performance measures.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 445.004, 445.024, 402.82, and 39.5085.

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 Commerce and Tourism Committee on April 17, 2017:

The committee substitute:

- Creates the TANF Reemployment Pilot Program in Pinellas County, to be administered by the Pinellas Opportunity Council, Inc., for the purpose of assisting TANF recipients in developing return-to-work plans with the goal of reemployment;
- Appropriates approximately \$300,000 of nonrecurring funds to the TANF Reemployment Pilot Program in Fiscal Year 2017-2018.

CS by Children, Families, and Elder Affairs Committee on April 3, 2017:

- Removes the increase in penalties for participants in the TANF program who do not meet work requirements;
- Amends s. 445.04, F.S., to add to the requirements of the CareerSource Florida annual report; and
- Requires the Office of Program Policy Analysis and Government Accountability to conduct a study of workforce development efforts for TANF recipients.

B. Amendments:

None.

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



941666

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Rouson) recommended the following:

Senate Amendment (with title amendment)

Between lines 181 and 182

insert:

Section 6. TANF Reemployment Pilot Program.-

(1) The Legislature finds that there is an important state interest in assisting Temporary Assistance for Needy Families (TANF) recipients in finding and securing stable and productive employment and that reemployment programs have the potential to benefit such recipients and their families and to alleviate the



11 financial strain on the state economy.

12 (2) The TANF Reemployment Pilot Program is created in
13 Pinellas County and shall be administered by the Pinellas
14 Opportunity Council, Inc.

15 (3) The purpose of the pilot program is to assist TANF
16 recipients in developing return-to-work plans with the goal of
17 reemployment.

18 Section 7. For the 2017-2018 fiscal year, the sum of
19 \$150,000 in nonrecurring funds from the General Revenue Fund and
20 \$150,000 in nonrecurring funds from the Federal Grants Trust
21 Fund are appropriated for the TANF Reemployment Pilot Program.

22
23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Between lines 25 and 26

26 insert:

- 27 providing legislative findings; creating the TANF
- 28 Reemployment Pilot Program in Pinellas County;
- 29 providing for the administration of the program;
- 30 providing the purpose and goal of the program;
- 31 providing an appropriation;

By the Committee on Children, Families, and Elder Affairs; and
Senator Rouson

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1 A bill to be entitled
2 An act relating to public assistance; amending s.
3 445.004, F.S.; requiring CareerSource Florida, Inc.,
4 to submit a detailed annual report on certain
5 information for individuals subject to mandatory work
6 requirements who receive temporary cash or food
7 assistance; amending s. 445.024, F.S.; requiring the
8 Department of Economic Opportunity, in cooperation
9 with CareerSource Florida, Inc., and the Department of
10 Children and Families, to develop and implement a work
11 plan agreement for participants in the temporary cash
12 assistance program; requiring the plan to identify
13 expectations, sanctions, and penalties for
14 noncompliance with work requirements; amending s.
15 402.82, F.S.; requiring the Department of Children and
16 Families to impose a replacement fee for electronic
17 benefits transfer cards under certain circumstances;
18 amending s. 39.5085, F.S.; revising eligibility
19 guidelines for the Relative Caregiver Program with
20 respect to relative and nonrelative caregivers;
21 requiring the Office of Program Policy Analysis and
22 Government Accountability (OPPAGA) to conduct a study;
23 providing study requirements; providing legislative
24 intent; requiring OPPAGA to submit a report by a
25 certain date to the Governor and the Legislature;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

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30 Section 1. Paragraph (c) is added to subsection (7) of
31 section 445.004, Florida Statutes, to read:
32 445.004 CareerSource Florida, Inc.; creation; purpose;
33 membership; duties and powers.—
34 (7) By December 1 of each year, CareerSource Florida, Inc.,
35 shall submit to the Governor, the President of the Senate, the
36 Speaker of the House of Representatives, the Senate Minority
37 Leader, and the House Minority Leader a complete and detailed
38 annual report setting forth:
39 (c) For each local workforce development board, participant
40 statistics and employment outcomes, by program, for individuals
41 subject to mandatory work requirements due to receipt of
42 temporary cash assistance or food assistance under chapter 414,
43 including:
44 1. Individuals served.
45 2. Services received.
46 3. Activities in which individuals participated.
47 4. Types of employment secured.
48 5. Individuals securing employment but remaining in each
49 program.
50 6. Individuals exiting programs due to employment.
51 7. Employment status at 3 months, 6 months, and 12 months
52 after exiting the program, for the past 3 years.
53 Section 2. Present subsections (3) through (7) of section
54 445.024, Florida Statutes, are renumbered as subsections (4)
55 through (8), respectively, and a new subsection (3) is added to
56 that section, to read:
57 445.024 Work requirements.—
58 (3) WORK PLAN AGREEMENT.—For each individual who is not

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59 otherwise exempt from work activity requirements, but before a
 60 participant may receive temporary cash assistance, the
 61 Department of Economic Opportunity, in cooperation with
 62 CareerSource Florida, Inc., and the Department of Children and
 63 Families, must:

64 (a) Inform the participant, in plain language, and require
 65 the participant to assent to, in writing:

66 1. What is expected of the participant to continue to
 67 receive temporary cash assistance benefits.

68 2. Under what circumstances the participant would be
 69 sanctioned for noncompliance.

70 3. Potential penalties for noncompliance with the work
 71 requirements in s. 414.065, including how long benefits would
 72 not be available to the participant.

73 (b) Work with the participant to develop strategies to
 74 assist the participant in overcoming obstacles to compliance
 75 with the work activity requirements.

76 Section 3. Present subsection (4) of section 402.82,
 77 Florida Statutes, is renumbered as subsection (5), and a new
 78 subsection (4) is added to that section, to read:

79 402.82 Electronic benefits transfer program.—

80 (4) The department shall impose a fee for the fifth and
 81 each subsequent request for a replacement electronic benefits
 82 transfer card made by a participant within a 12-month period.
 83 The fee must be equal to the cost of replacing the electronic
 84 benefits transfer card. The fee may be deducted from the
 85 participant's benefits. The department may waive the replacement
 86 fee upon a showing of good cause, such as the malfunction of the
 87 card or extreme financial hardship.

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88 Section 4. Paragraph (a) of subsection (1) and paragraph
 89 (a) of subsection (2) of section 39.5085, Florida Statutes, are
 90 amended to read:

91 39.5085 Relative Caregiver Program.—

92 (1) It is the intent of the Legislature in enacting this
 93 section to:

94 (a) Provide for the establishment of procedures and
 95 protocols that serve to advance the continued safety of children
 96 by acknowledging the valued resource uniquely available through
 97 grandparents, relatives of children, and specified nonrelatives
 98 of children pursuant to sub-subparagraph (2)(a)1.c. ~~subparagraph~~
 99 ~~(2)(a)3.~~

100 (2)(a) The Department of Children and Families shall
 101 establish, ~~and operate, and implement~~ the Relative Caregiver
 102 Program ~~pursuant to eligibility guidelines established in this~~
 103 ~~section as further implemented~~ by rule of the department.

104 1. The Relative Caregiver Program shall, within the limits
 105 of available funding, provide financial assistance to:

106 a.1- Relatives who are within the fifth degree by blood or
 107 marriage to the parent or stepparent of a child and who are
 108 caring full-time for that dependent child in the role of
 109 substitute parent as a result of a court's determination of
 110 child abuse, neglect, or abandonment and subsequent placement
 111 with the relative under this chapter.

112 b.2- Relatives who are within the fifth degree by blood or
 113 marriage to the parent or stepparent of a child and who are
 114 caring full-time for that dependent child, and a dependent half-
 115 brother or half-sister of that dependent child, in the role of
 116 substitute parent as a result of a court's determination of

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117 child abuse, neglect, or abandonment and subsequent placement
118 with the relative under this chapter.

119 ~~c.3.~~ Nonrelatives who are willing to assume custody and
120 care of a dependent child in the role of substitute parent as a
121 result of a court's determination of child abuse, neglect, or
122 abandonment and subsequent placement with the nonrelative
123 caregiver under this chapter. The court must find that a
124 proposed placement under this subparagraph is in the best
125 interest of the child.

126 2. The relative or nonrelative caregiver may not receive a
127 Relative Caregiver Program payment if the parent or stepparent
128 of the child resides in the home. However, a relative or
129 nonrelative may receive the payment for a minor parent who is in
130 his or her care and for the minor parent's child, if both the
131 minor parent and the child have been adjudicated dependent and
132 meet all other eligibility requirements. If the caregiver is
133 currently receiving the payment, the payment must be terminated
134 no later than the first day of the following month after the
135 parent or stepparent moves into the home. Before the payment is
136 terminated, the caregiver must be given 10 days' notice of
137 adverse action.

138
139 The placement may be court-ordered temporary legal custody to
140 the relative or nonrelative under protective supervision of the
141 department pursuant to s. 39.521(1)(b)3., or court-ordered
142 placement in the home of a relative or nonrelative as a
143 permanency option under s. 39.6221 or s. 39.6231 or under former
144 s. 39.622 if the placement was made before July 1, 2006. The
145 Relative Caregiver Program shall offer financial assistance to

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146 caregivers who would be unable to serve in that capacity without
147 the caregiver payment because of financial burden, thus exposing
148 the child to the trauma of placement in a shelter or in foster
149 care.

150 Section 5. (1) The Office of Program Policy Analysis and
151 Government Accountability shall conduct a study of each local
152 workforce development board to determine what barriers exist
153 which prevent participants in the Supplemental Nutrition
154 Assistance Program and the Temporary Assistance for Needy
155 Families cash assistance program from complying with the work
156 requirements in the respective programs. The study must include
157 detailed data and analysis of the reasons why applicants and
158 recipients do not comply with the work requirements, the reasons
159 that noncompliant applicants and recipients identify as barriers
160 to compliance, and what assistance was offered to the
161 participants to come into compliance. The study must also
162 include a listing of the specific reasons for the sanctions
163 applied, separated into categories with the number of
164 participants who received each sanction. For example:

165 (a) Failure to attend a scheduled meeting-10 people
166 sanctioned;

167 (b) Failure to complete required documents-5 people
168 sanctioned; or

169 (c) Failure to comply with child support requirements, with
170 specifics on what the requirement was.

171 (2) The legislative intent for requesting this independent
172 study is to gain an in-depth understanding of the barriers that
173 may exist for people trying to participate in the workforce,
174 through reviewing the specific reasons participants are

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175 sanctioned on a region by region basis.

176 (3) The Office of Program Policy Analysis and Government
177 Accountability shall submit a report with its findings and
178 recommendations to the Governor, the President of the Senate,
179 the Speaker of the House of Representatives, and the Minority
180 Leaders of the Senate and the House of Representatives by
181 November 1, 2017.

182 Section 6. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: April 3, 2017

I respectfully request that **Senate Bill #570**, relating to Public Assistance, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Darryl Rouson".

Senator Darryl Rouson
Florida Senate, District 19

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17

Meeting Date

570

Bill Number (if applicable)

Topic Public Assistance

Name Arthur Rosenberg

Job Title Attorney

Address 3000 Biscayne Blvd, #106

Street

Miami

City

FL

State

33137

Zip

Phone 850-509-2085

Email arthur@floridalegal.org

Speaking: For Against Information

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

Representing Florida Legal Services

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)

4/17/17
Meeting Date

570
Bill Number (if applicable)

Topic Public Assistance

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec Director

Address 579 E. Call St.
Street

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fctep@yahoo.com

Speaking: For Against Information

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

Representing Fla Center for Fiscal & Economic Policy

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
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 Commerce and Tourism

BILL: CS/SB 1032

INTRODUCER: Commerce and Tourism Committee and Senator Mayfield

SUBJECT: Unfair Insurance Trade Practices

DATE: April 17, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1032 allows a licensed insurer or its agent to give advertising and promotional gifts to insureds and prospective insureds that do not exceed total value of \$100 within one calendar year. Advertising and promotional gifts include articles of merchandise, goods, wares, gift cards, gift certificates, event tickets, and other items. The bill also allows a licensed insurer or its agent to make charitable contributions up to \$100 per calendar year on behalf of each insured or prospective insured.

Under current law, a licensed insurer and its agent may give out gifts valued at not more than \$25 for advertising purposes. The bill clarifies that title insurance agents, title insurance agencies, and title insurers remain subject to the \$25 maximum value restriction for any article of merchandise given to insureds or prospective insureds for the purpose of advertising.

The bill is effective July 1, 2017.

II. Present Situation:

Section 626.9541, F.S., defines unfair methods of competition and unfair or deceptive acts in the business of insurance. It provides an extensive list of prohibited methods and acts. Among these are prohibitions on certain inducements for the purchase of insurance, including rebates, dividends, stock, and contracts that promise to return profits to the prospective insurance

purchaser. The law also describes prohibited discrimination. However, there are many exceptions to the prohibitions defined by law.

Among the exceptions is authorization for insurers and their agents to gift articles of merchandise up to \$25 per gift to an insured, prospective insured, or any person for the purpose of advertising. There are several similar limitations on advertising gifts under the Insurance Code related to the advertising practices of public adjusters, group and individual health benefit plans, and motor vehicle service agreement companies.¹ The \$25 limit has been in place since 1989.²

The Insurance Code³ does not define the term “merchandise,” nor has the Department of Financial Services or the Office of Insurance Regulation defined this term in rules implementing their duties and obligations under the Insurance Code.⁴ The common definition of “merchandise” is “commodities or goods that are bought and sold in business.”⁵ Therefore, insurers and agents are allowed to give saleable items valued at \$25 or less to others for advertising purposes.

III. Effect of Proposed Changes:

The bill allows a licensed insurer and its agent to give out goods, wares, gift cards, gift certificates, event tickets, and other items in addition to articles of merchandise. It removes the requirement that the gift be given for advertising purposes. The bill increases the allowed maximum value of items given from \$25 to \$100 and applies the limit within one calendar year per customer or prospective customer.

The bill allows a licensed insurer and its agent to make charitable contributions, as defined in s. 107(c) of the Internal Revenue Code, of up to \$100 per calendar year on behalf of each insured or prospective insured.

The bill clarifies that title insurance agents, title insurance agencies, and title insurers remain subject to the \$25 maximum value restriction for any article of merchandise given to insureds or prospective insureds for the purpose of advertising.

The bill takes effect July 1, 2017.

¹ Public adjusters, their apprentices, and anyone acting on behalf of the public adjuster are prohibited from giving gifts of merchandise valued in excess of \$25 as an inducement to contract. Section 626.854(10), F.S. A group or individual health benefit plan may provide merchandise without limitation in value as part of an advertisement for voluntary wellness or health improvement programs. Section 626.9541(4)(a), F.S. Motor vehicle service agreement companies are prohibited from giving gifts of merchandise in excess of \$25 to agreement holders, prospective agreement holders, or others for the purpose of advertising. Section 634.282(17), F.S.

² Chapter 89-360, Laws of Fla.

³ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the “Florida Insurance Code.” Section 624.01, F.S.

⁴ Rule 69B-186.010, F.A.C., Unlawful Inducements Related to Title Insurance Transactions, governs inducements related to title insurance, but exempts gifts within the value limitation of s. 626.9541(1)(m), F.S. However, federal law prohibits any fee, kickback, or thing of value given for referral of real estate settlement services on mortgage loans related to federal programs. 12 U.S.C. 2607 (2017).

⁵ MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/merchandise> (last visited April 7, 2017).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.9541 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 Commerce and Tourism Committee on April 17, 2017:**

The committee substitute:

- Removes prizes from the list of promotional items that may be given by a licensed insurer or its agent under certain circumstances;

- Removes the provision requiring listed items to be given for the purpose of conducting a promotional or advertising program;
- Limits the allowable value of items given by a licensed insurer or its agent to a total value of \$100 or less “per customer or prospective customer” per calendar year;
- Allows a licensed insurer or its agent to make charitable contributions up to \$100 per calendar year on behalf of each insured or prospective insured; and
- Clarifies that any article of merchandise given by title insurance agents, title insurance agencies, or title insurers to insureds or prospective insureds for the purpose of advertising may not exceed a value of \$25.

B. Amendments:

None.



827622

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
ACTS.—The following are defined as unfair methods of competition



827622

11 and unfair or deceptive acts or practices:

12 (m) Advertising and promotional gifts and charitable
13 contributions permitted.—No provision of paragraph (f),
14 paragraph (g), or paragraph (h) shall be deemed to prohibit:

15 1. A licensed insurer or its agent from:

16 a. Giving to insureds, prospective insureds, and others,
17 ~~for the purpose of advertising,~~ any article of merchandise,
18 goods, wares, gift cards, gift certificates, event tickets, and
19 other items with a total value of \$100 or less per customer or
20 prospective customer within one calendar year having a value of
21 ~~not more than \$25.~~

22 b. Making charitable contributions, as defined in s. 170(c)
23 of the Internal Revenue Code, up to \$100 per calendar year on
24 behalf of each insured or prospective insured.

25 2. A title insurance agent or title insurance agency, as
26 those terms are defined in s. 626.841, or a title insurer, as
27 defined in s. 627.7711, from giving to insureds, prospective
28 insureds, and others, for the purpose of advertising, any
29 article of merchandise having a value of not more than \$25.

30 Section 2. This act shall take effect July 1, 2017.

31
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete everything before the enacting clause
35 and insert:

36 A bill to be entitled
37 An act relating to unfair insurance trade practices;
38 amending s. 626.9541, F.S.; revising provisions to
39 permit a licensed insurer or its agent, a title



827622

40 insurance agent, a title insurance agency, or a title
41 insurer to give advertising or promotional items under
42 specified values; providing that licensed insurers and
43 their agents are not prohibited from making specified
44 charitable contributions on behalf of insureds or
45 prospective insureds; providing an effective date.

By Senator Mayfield

17-01128-17

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A bill to be entitled

An act relating to unfair insurance trade practices;
amending s. 626.9541, F.S.; revising provisions to
permit a licensed insurer or its agent to give
promotional or advertising items under a certain
value; providing an effective date.

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

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

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

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

(m) Promotional items ~~Advertising gifts~~ permitted.—No
provision of paragraph (f), paragraph (g), or paragraph (h)
shall be deemed to prohibit a licensed insurer or its agent from
giving prizes, goods, wares, gift cards, gift certificates,
event tickets, merchandise, and other items valued at \$100 or
less to insureds, prospective insureds, and others, for the
purpose of conducting a promotional or advertising program. An
insurer or its agent may not give such promotional items that
exceed \$100 in total value within one calendar year to an
individual advertising, any article of merchandise having a
value of not more than \$25.

Section 2. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DEBBIE MAYFIELD
17th District

COMMITTEES:
Education, *Vice Chair*
Appropriations Subcommittee on the Environment
and Natural Resources
Appropriations Subcommittee on General
Government
Banking and Insurance
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee,
Alternating Chair

April 3, 2017

Chairman Bill Montford
410 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Re: SB 1032

Dear Chairman Montford,

I am respectfully requesting Senate Bill 1032, a bill relating to the Unfair Insurance Trade Practices, be placed on the agenda for your committee on Commerce and Tourism.

I appreciate your consideration of this bill and I look forward to working with you and the Commerce and Tourism committee in the future. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017.

Thank you,

A handwritten signature in cursive script, appearing to read "Debbie Mayfield".

Senator Debbie Mayfield
District 17

Cc: Todd McKay, Gabriela Denton, Marilyn Barnes, Melissa Durham, Marcia Mathis, Taylor Peck, Lily Tysinger

REPLY TO:

- 900 E. Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025
- 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1032

Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____

Topic _____

Name Robert Reyes

Job Title _____

Address 325 W College Ave

Street

TALL
City

FL
State

32301
Zip

Phone 850 509 1802

Email reyes@cap.tal.gov

Speaking: For Against Information

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

Representing Allstate Insurance Company

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

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Meeting Date _____

1032
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Tim Meenan

Job Title _____

Address 325 W College Ave
Street
Tallahassee FL 32312
City State Zip

Phone (850) 425-4000

Email Tim@MeenanLaw.com

Speaking: For Against Information

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

Representing Nationwide

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

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4/17/17
Meeting Date

1032
Bill Number (if applicable)

Topic INSURANCE



Amendment Barcode (if applicable)

Name KYLE ULRICH

Job Title SVP

Address ~~12345~~ PO BOX 12129
Street

Phone 850-893-4155

TALLAHASSEE FL 32317
City State Zip

Email KULRICH@FAIA.COM

Speaking: For Against Information

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

Representing FL ASSOCIATION OF INSURANCE AGENTS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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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 Commerce and Tourism

BILL: CS/SB 1298

INTRODUCER: Banking and Insurance Committee and Senator Garcia

SUBJECT: Mortgage Lending

DATE: April 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1298 revises provisions governing non-depository loan originators, mortgage brokers, and mortgage lender businesses subject to regulation by the Office of Financial Regulation (OFR) to provide greater consumer protections for residential loans. The bill amends the definition of “mortgage loan” to include residential mortgage loans made for business purposes. Persons originating, brokering, or lending such loans may be subject to licensure by the OFR, unless they are otherwise exempt. Further, the bill provides a definition of the term “hold himself or herself out to the public as being in the mortgage lending business,” as that term currently exists under two licensing exemption provisions.

Under ch. 494, F.S., conditions requiring licensure by the OFR include whether a person takes part in making a mortgage loan, which requires such a loan be made primarily for personal, family, or household use. Under current law, two exemptions in ch. 494, F.S., permit an individual investor to make or acquire a mortgage loan with his or her own funds, or to sell such mortgage loan, without being licensed as a mortgage lender, if the individual does not “hold himself or herself out to the public as being in the mortgage lending business.” However, this term is currently undefined.

The fiscal impact on the OFR is indeterminate.

II. Present Situation:

Shadow Real Estate Transactions

The Financial Crimes Enforcement Network (FinCEN) recently announced the renewal of an existing Geographic Targeting Orders (GTO) in 2017. This GTO temporarily extends the requirement that U.S. title insurance companies in six metropolitan areas in the U.S., including Miami-Dade County, Florida, identify the natural persons behind shell companies used to pay “all cash” for high-end residential real estate.¹ FinCEN has found that about 30 percent of the transactions covered by the GTOs involve a beneficial owner or purchaser representative that is also the subject of a previous suspicious activity report. The GTOs are one of the tools that FinCEN uses to combat money laundering. According to FinCEN, this corroborates their concerns about the use of shell companies to buy luxury real estate in “all-cash” transactions. In an earlier GTO issued in January 2016, FinCEN indicated that it was prioritizing anti-money laundering protections on real estate transactions involving lending.

FinCEN covers title insurance companies because title insurance is a common feature in the vast majority of real estate transactions. Title insurance companies thus play a central role in providing FinCEN with valuable information about real estate transactions of concern. The GTOs do not imply any derogatory finding by FinCEN with respect to the covered companies.

In recent years, private lenders and representatives of a local building association have reported alleged unlicensed mortgage lending activity in South Florida. According to these reports, some lending entities were providing residential loans with usurious interest rates and high fees made under the guise of business purpose loans in order to avoid licensure and disclosure requirements under ch. 494, F.S., as a mortgage lender. These groups also claimed that some of these unscrupulous lenders would not make the “residential loan” unless the borrower formed a limited liability company.² In another example described by the private lenders and local building association, an offshore shell company buys a parcel of real estate. Shortly thereafter, a Florida corporation, which is formed to participate in the scheme, obtains a mortgage loan on the property through an unlicensed mortgage lender. Next, the shell company pays the Florida corporation’s monthly mortgage payments and ultimately pays off the mortgage. As a result, the perpetrator successfully launders money in the United States.³

Federal Oversight of Mortgage Brokerage Industry

Secure and Fair Enforcement for Mortgage Licensing Act of 2008

On July 30, 2008, the federal Housing and Economic Recovery Act of 2008 was enacted.⁴ Title V of this act is titled the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or the “S.A.F.E. Mortgage Licensing Act of 2008” (SAFE Act). The SAFE Act

¹ FinCEN Press Release (Feb. 23, 2017) available at <https://www.fincen.gov/news/news-releases/fincen-renews-real-estate-geographic-targeting-orders-identify-high-end-cash> (last viewed April 10, 2017).

² Latin Builders Association, Letter to Governor Rick Scott (Dec. 19, 2013) (on file with Senate Banking and Insurance Committee).

³ <http://www.miamiherald.com/opinion/letters-to-the-editor/article75237702.html> (last viewed April 10, 2017) (on file with Senate Committee on Banking and Insurance).

⁴ Pub. L. No. 110-289.

establishes minimum standards for state licensure of residential mortgage loan originators in order to increase uniformity, improve accountability of loan originators, combat fraud, and enhance consumer protections. The act required all states to adopt a system of licensure meeting minimum standards for mortgage loan originators by August 1, 2009, or be subject to federal regulation. The act establishes regulatory requirements for individuals, rather than businesses, licensed or registered as mortgage brokers and lenders, collectively known as loan originators. Pursuant to the SAFE Act, states are required to participate in a national licensing registry, the Nationwide Mortgage Licensing System and Registry (registry), which contains employment history as well as disciplinary and enforcement actions against loan originators. Applicants are subject to licensure by the state regulator.⁵

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) created the Consumer Financial Protection Bureau (CFPB) and provided sweeping changes to the regulation of financial services, including changes to federal mortgage loan origination and lending laws.⁶ The Dodd-Frank Act authorizes the CFPB to have rulemaking, enforcement, and supervisory powers over many consumer financial products and services, as well as the entities that sell them. Some of the consumer laws under the CFPB include the Truth in Lending Act (TILA)⁷ and the Real Estate Settlement Procedures Act (RESPA).⁸ The TILA is intended to ensure that credit terms are disclosed in a meaningful way so consumers can compare credit terms, and is implemented by Regulation Z. The RESPA requires lenders, mortgage brokers, or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and costs of the real estate settlement process, and is implemented by Regulation X.

Both TILA and RESPA exempt from their regulations a mortgage loan made “primarily for a business, commercial or agricultural purpose.”⁹ Therefore, TILA and RESPA do not cover “business purpose” mortgage loans but rather only “consumer purpose” mortgage loans. When determining whether credit is for a consumer purpose, the creditor must evaluate all of the following factors:

- Any statement obtained from the consumer describing the purpose of the proceeds;
- The primary occupation of the consumer and how it relates to the use of the proceeds;
- Personal management of the assets purchased from proceeds;
- The size of the transaction; and
- The amount of income derived from the property acquired by the loan proceeds relative to the borrower’s total income.

⁵ NLMS Resource Center, available at <http://mortgage.nationwidelicensingsystem.org/about/Pages/default.aspx> (last viewed April 10, 2017).

⁶ Pub. L. No. 111-203.

⁷ 15 U.S.C. 1601, *et. seq.*

⁸ 15 U.S.C. 2601, *et. seq.*

⁹ Consumer Financial Protection Bureau, *2013 Integrated Mortgage Disclosure Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)*, available at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/2013-integrated-mortgage-disclosure-rule-under-real-estate-settlement-procedures-act-regulation-x-and-truth-lending-act-regulation-z/> (last viewed April 10, 2017).

The Dodd-Frank Act mandated that the CFPB adopt an integrated disclosure form for use by lenders and creditors to comply with the disclosure requirements of RESPA and TILA,¹⁰ and the CFPB issued final rules in 2015.¹¹ The integrated rule applies to most closed-end consumer mortgages secured by real property. It does not apply to home equity lines of credit (HELOCs), reverse mortgages, or mortgages secured by a mobile home or by a dwelling that is not attached to real property (i.e., land). *The Small Entity Guide* published by the CFPB does not specify whether loans for business purposes or for investment properties are exempt from the rule. However, the guide does provide that creditors are not prohibited from using the integrated disclosure forms on loans that are not covered by the rule.¹²

State Regulation of Mortgage Loans

The Office of Financial Regulation (OFR) regulates a wide range of financial activities, such as state-chartered banks, credit unions, and non-depository loan originators, mortgage brokers and mortgage lenders. In 2009, the Florida Legislature implemented the minimum standards of the SAFE Act, which increased licensure requirements and required licensure through the registry.¹³ Section 494.001(24), F.S., defines the term “mortgage loan” to mean a:

- Residential loan primarily for personal, family, or household use which is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in s. 103(v) of the federal TILA,¹⁴ or for the purchase of residential real estate upon which a dwelling is to be constructed;
- Loan on commercial real property if the borrower is an individual or the lender is a noninstitutional investor; or
- Loan on improved real property consisting of five or more dwelling units if the borrower is an individual or the lender is a noninstitutional investor.

Licensure of Loan Originators, Mortgage Brokers, and Mortgage Broker Lenders

An individual who acts as a loan originator must obtain a loan originator license.¹⁵ A “loan originator means” an individual who, directly or indirectly:

- Solicits or offers to solicit a mortgage loan;
- Accepts or offers to accept an application for a mortgage loan;
- Negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender; or
- Negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain.¹⁶

¹⁰ 12 U.S.C. ss. 5532(f), 2603; 15 U.S.C. s. 1604(b).

¹¹ 78 Fed Reg 79730.

¹² See CFPB, *Small Entity Compliance Guide*, available at

http://s3.amazonaws.com/files.consumerfinance.gov/f/documents/kbyo_smallentitycomplianceguide_v4_10072016.pdf (last viewed April 12, 2017).

¹³ Chapter 2009-241, Laws of Fla.

¹⁴ The term “dwelling” means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives. Current law inadvertently references the definition of “material disclosure” under s. 103(v), rather than the term “dwelling,” which is defined under s. 103(w). See 15 U.S.C. 1602.

¹⁵ Section 494.00312, F.S.

¹⁶ Section 494.001(17), F.S.

The term “loan originator” includes an individual who is required to be licensed as a loan originator under the SAFE Act. The term does not include an employee of a mortgage broker or mortgage lender whose duties are limited to physically handling a completed application form or transmitting a completed application form to a lender on behalf of a prospective borrower.¹⁷

A “mortgage broker” means a person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as an independent contractor to the mortgage broker¹⁸ and such persons are required to be licensed as mortgage brokers.¹⁹

A “mortgage lender” means any person making a mortgage loan for compensation or gain, directly or indirectly, or selling or offering to sell a mortgage loan to a noninstitutional investor,²⁰ and such persons are required to be licensed as mortgage lenders.²¹ “Making a mortgage loan” means closing a mortgage loan in a person's name, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan.²² The following persons are exempt from regulation as a mortgage lender under part III of ch. 494, F.S.:

- A person acting in a fiduciary capacity conferred by the authority of a court;
- A person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction;
- A person who acts solely under contract and as an agent for federal, state, or municipal agencies for servicing mortgage loans;
- A person who makes only nonresidential mortgage loans and sells loans only to institutional investors;
- An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business; and
- An individual selling a mortgage that was made or purchased with that individual's funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.²³

Examination Authority, Administrative Penalties and Fines

The OFR may conduct investigations, examinations, and investigate complaints.²⁴ The OFR may take disciplinary action against a person licensed or subject to licensure under parts II or III of ch. 494, F.S., if the person violates any provision of RESPA, TILA, or any regulations adopted under such acts, during the course of any mortgage transaction.²⁵

¹⁷ *Id.*

¹⁸ Section 494.001(22), F.S.

¹⁹ Section 494.00321, F.S.

²⁰ Section 494.001(23), F.S.

²¹ Section 494.00611, F.S.

²² Section 494.001(20), F.S.

²³ Section 494.00115(2), F.S.

²⁴ Section 494.0012, F.S.

²⁵ *See* s. 494.00255, F.S.

III. Effect of Proposed Changes:

Section 1 amends the definition of the term, “mortgage loan” in s. 494.001(24), F.S., by removing the requirement that residential loans be used primarily for personal, family, or household purposes. As a result, the bill allows residential loans made for a business purpose to fall under the definition of a “mortgage loan” and to be subject to regulation by the OFR. The bill may require persons originating, brokering, or lending such loans to obtain licensure under ch. 494, F.S., unless they fall within an exemption under s. 494.00115, F.S.

The bill also makes a technical change to correct a reference to the definition of “dwelling” in s. 103(w) of the federal TILA.

Section 2 amends s. 494.00115, F.S., to define a term currently used under two licensing exemption provisions. The bill defines “hold himself or herself out to the public as being in the mortgage lending business” as any of the following:

- Representing to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or promotional items), by any medium whatsoever, that such individual can or will perform the activities described in s. 494.001(23), F.S., as a mortgage lender;
- Soliciting in a manner that would lead the intended audience to reasonably believe that such individual is in the business of performing the activities described in s. 494.001(23), F.S.;
- Maintaining a commercial business establishment at which, or premises from which, such individual regularly performs the activities described in s. 494.001(23), F.S., or regularly meets with current or prospective borrowers;
- Advertising, soliciting, or conducting business through use of a name, trademark, service mark, trade name, Internet address, or logo which indicates or reasonably implies that the business being advertised, solicited, or conducted is the kind or character of business transacted or conducted by a licensed mortgage lender or which is likely to lead any person to believe that such business is that of a licensed mortgage lender; and
- Using any form promulgated by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development, or the CFPB in performing the activities described in s. 494.001(23), F.S.

Section 3 provides the effective date of January 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Implementation of the bill would allow borrowers obtaining residential mortgage for business purposes (not primarily for personal, family, or household use) greater consumer protections provided under ch. 494, F.S., which requires compliance with RESPA and TILA. All residential mortgage loans regardless of the purpose would be subject to the provisions of ch. 494, F.S.

Persons making residential mortgage loans for business purposes and who are not licensed would be required to obtain licensure under ch. 494, F.S., in order to continue such lending activity.

C. Government Sector Impact:

Indeterminate at this time. The OFR has indicated that additional staff may be needed to perform licensing and regulatory functions. In recent years, the OFR has closed cases relating to information pertaining to approximately 24 entities allegedly making residential mortgage loans for business purposes. Of these cases, the OFR imposed administrative fines on three entities engaging in unlicensed mortgage lending. The OFR closed 15 other cases because the residential loans were determined to be for business purposes, which was outside of the jurisdiction of the OFR.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

A violation of RESPA, TILA, or any regulations adopted thereunder committed in any mortgage transaction, is a ground for disciplinary action under ch. 494, F.S. Both RESPA and TILA exclude business purpose loans from the scope of their regulation. Therefore, a person may be subject to licensure under ch. 494, F.S., but would not necessarily be required to provide the disclosures required under RESPA and TILA if the residential mortgage loan is made for business purposes.

Lines 32-34 of the bill contain a clause in parentheses, which is relatively uncommon in Florida law.

²⁶ OFR Mortgage Lender Referrals (Nov. 3, 2016) (on file with Senate Banking and Insurance Committee).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 494.001 and 494.00115.

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 Banking and Insurance Committee on March 27, 2017:

The bill provides a definition of the term “hold himself or herself out to the public as being in the mortgage lending business,” which is used in two current licensure exemptions and removes a rulemaking provision.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Garcia

597-02947-17

20171298c1

A bill to be entitled

An act relating to mortgage lending; amending s. 494.001, F.S.; revising the definition of the term "mortgage loan"; amending s. 494.00115, F.S.; providing a definition for the term "hold himself or herself out to the public as being in the mortgage lending business"; providing an effective date.

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

Section 1. Subsection (24) of section 494.001, Florida Statutes, is amended to read:

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

(24) "Mortgage loan" means any:

(a) Residential loan ~~that primarily for personal, family, or household use which~~ is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in s. 103(w) ~~s. 103(v)~~ of the federal Truth in Lending Act, or for the purchase of residential real estate upon which a dwelling is to be constructed;

(b) Loan on commercial real property if the borrower is an individual or the lender is a noninstitutional investor; or

(c) Loan on improved real property consisting of five or more dwelling units if the borrower is an individual or the lender is a noninstitutional investor.

Section 2. Subsection (4) is added to section 494.00115, Florida Statutes, to read:

(4) As used in this section, the term "hold himself or herself out to the public as being in the mortgage lending

Page 1 of 2

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

597-02947-17

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business" includes any of the following:

(a) Representing to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or promotional items), by any medium whatsoever, that such individual can or will perform the activities described in s. 494.001(23).

(b) Soliciting in a manner that would lead the intended audience to reasonably believe that such individual is in the business of performing the activities described in s. 494.001(23).

(c) Maintaining a commercial business establishment at which, or premises from which, such individual regularly performs the activities described in s. 494.001(23) or regularly meets with current or prospective borrowers.

(d) Advertising, soliciting, or conducting business through use of a name, trademark, service mark, trade name, Internet address, or logo which indicates or reasonably implies that the business being advertised, solicited, or conducted is the kind or character of business transacted or conducted by a licensed mortgage lender or which is likely to lead any person to believe that such business is that of a licensed mortgage lender.

(e) Using any form promulgated by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the United States Department of Housing and Urban Development, or the Consumer Financial Protection Bureau in performing the activities described in s. 494.001(23).

Section 3. This act shall take effect January 1, 2018.

Page 2 of 2

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The Florida Senate
State Senator René García
36th District

Please reply to:

District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

March 28th, 2017

The Honorable Bill Montford
Chairman, Committee on Commerce and Tourism
310 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Montford,

Please have this letter serve as my formal request to have **SB 1298: Mortgage Loans** be heard during the next scheduled Commerce and Tourism Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 36

CC: Todd McKay
Gabriela Denton

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 Commerce and Tourism

BILL: CS/SB 1678

INTRODUCER: Transportation Committee and Senator Garcia

SUBJECT: Motor Vehicle Applicants, Licensees, and Dealers

DATE: April 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.	Little	McKay	CM	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1678 addresses issues related to contracts between licensed motor vehicle manufacturers, distributors, and importers (applicants or licensees), and motor vehicle dealers. The bill:

- Prohibits an applicant or licensee from establishing or enforcing unfair, unreasonable, arbitrary, or inequitable sales or service performance measurements that have an adverse effect on a dealer;
- Provides that a dealer who completes certain sales and service facility alterations are in full compliance with the applicant's or licensee's requirements related to such alterations for the following ten-year period;
- Provides that a dealer who has completed a prior approved facility incentive program, standard, or policy during the ten-year period, who does not comply with the provisions related to a new or revised facility, sign, or image program, is not eligible for the new benefits, but is entitled to all prior benefits plus any increase in benefits between the prior and revised or new programs for the remainder of the ten-year period; and
- Reenacts ss. 320.60-320.70, F.S., to incorporate changes made by the bill.

The bill does not appear to have a significant fiscal impact to state and local government.

The bill takes effect upon becoming law.

II. Present Situation:

Florida has substantially regulated motor vehicle manufacturers and motor vehicle dealers since before 1950.¹ Initially, the Florida Legislature approached the issue by implementing only consumer protections aimed at preventing consumer abuse by dealers.² In 1970, the Legislature passed more comprehensive legislation, embodied in ch. 320, F.S.,³ which regulates, in part, the contractual relationship between manufacturers and dealers,⁴ requires the licensing of manufacturers, and regulates numerous aspects of the contracts between the manufacturers and dealers.

Florida Automobile Dealers Act

A manufacturer, factory branch, distributor, or importer (licensee) must be licensed under s. 320.61(1), F.S., to engage in business in Florida. Sections 320.60-320.70, F.S., the “Florida Automobile Dealers Act”⁵ (act), primarily regulate the contractual business relationship between dealers and licensees. The act specifies, in part:

- The conditions and situations under which the Department of Highway Safety and Motor Vehicles (DHSMV) may deny, suspend, or revoke a regulated license;
- The process, timing, and notice requirements for licensees who wish to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a request;
- The procedures a licensee must follow to add a dealership in an area already served by a franchised dealer, the protest process, and the DHSMV’s role in these circumstances;
- The damages that can be assessed against a licensee who is in violation of Florida Statutes; and
- The DHSMV’s authority to adopt rules to implement these sections of law.

Applicability

Section 320.6992, F.S., provides that the act shall apply to all presently existing or future systems of distribution of motor vehicles in Florida, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution. Generally, all agreements that are renewed, amended, or entered into subsequent to October 1, 1988, are governed by the act, including amendments to the act, unless the amendment specifically provides otherwise.

In 2009, the DHSMV held in an administrative proceeding that amendments to the act do not apply to dealers whose franchise agreements were signed prior to the effective date of various

¹ Chapter 9157, Laws of Fla. (1923); Chapter 20236, Laws of Fla. (1941).

² Walter E. Forehand and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 Fla. St. Univ. Law Rev. 1058, 1064 (2002), <http://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1632&context=lr> (last visited April 13, 2017).

³ Chapter 70-424, Laws of Fla.

⁴ See s. 320.60(11), F.S.

⁵ Walter E. Forehand, *supra* note 2 at 1065.

amendments to the act.⁶ The DHSMV has indicated that it will apply the *Motorsports* holding to every amendment to the act. This may result in different protections accruing to dealers, depending on when they signed their franchise agreements.

Grounds for Denial, Suspension, or Revocation of a License

Section 320.64, F.S., currently includes 40 different subsections listing criteria that may cause the DHSMV to deny, suspend, or revoke the licensee's license. A licensee is prohibited from committing the following acts toward dealers:

- Being unable to carry out contractual obligations with motor vehicle dealers;
- Coercing or attempting to coerce dealers into accepting motor vehicles, parts, or accessories the dealer did not order;
- Coercing the dealer into any agreement with the licensee;
- Threatening to discontinue, cancel, or not renew a franchise agreement with a dealer in violation of s. 320.641, F.S., regarding the process for discontinuing, canceling, nonrenewing, modifying, or replacing franchise agreements;
- Threatening to, or replacing or modifying a franchise agreement in a way that would adversely alter the rights or obligations of the dealer, or which substantially impairs sales, service obligations, or investment of the dealer;
- Attempting to enter or entering into a franchise agreement with a dealer who does not have the proper facilities to provide services necessary to provide for new vehicle warranties;
- Requiring a dealer to make substantial changes to the dealer's sales or services facilities that are not considered reasonable or justified, except when offering, to its same line-make⁷ dealers a similar incentive for similar improvements, a written commitment to supply additional vehicles, a loan, or grant money;
- Coercing a dealer to provide installment financing for the dealer's purchasers using a specified financial institution;
- Preventing or refusing to accept the succession to any interest in a franchise agreement by any legal heir or devisee, as long as they meet the licensee's written, reasonable, and uniformly applied minimal standard qualifications for dealer applicants;
- Establishing or implementing a system of vehicle allocation or distribution which alters or reduces allocations or supplies of new motor vehicles to dealers in a way that is unfair, inequitable, unreasonably discriminatory, or not supported by reason and good cause;
- Delaying, refusing, or failing to provide a supply of vehicles by series in reasonable quantities without good and fair cause;
- Threatening to require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel intended to relieve any person from liability or obligation under this act;

⁶ See *Motorsports of Delray, LLC v. Yamaha Motor Corp., U.S.A.*, Case No. 09-0935 (Fla. DOAH Dec. 9, 2009). The DHSMV ruled that a 2006 amendment to the Florida Automobile Dealers Act does not apply to a dealer terminated in 2008 because the dealer's franchise agreement was entered into prior to the effective date of the amendment. This Final Order was initially appealed but was later voluntarily dismissed. See also, *In re Am. Suzuki Motor Corp.*, 494 B.R. 466, 480 (Bankr. C.D. Cal. 2013).

⁷ Section 320.60(14), F.S., defines "Line-make vehicles" as motor vehicles offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer of same. However, motor vehicles sold or leased under multiple brand names or marks constitute a single line-make when they are included in a single franchise agreement and every dealer in this state authorized to sell or lease such vehicles has been offered the right to sell or lease the multiple brand names covered by a single franchise agreement.

- Threatening or coercing a dealer toward action whereby the dealer foregoes its right to protest the establishment or relocation of a dealer in the community;
- Refusing to deliver, in reasonable quantities and within a reasonable time, motor vehicles or parts to any dealer who has an agreement for the retail sale of such new vehicles or parts.⁸
- Performing audits on dealers outside of the required time-frames authorized in statute;
- Taking action against a dealer who sold or leased a vehicle that the customer then exported or resold, providing the dealer did not know the customer's intention;
- Making available dealer's confidential financial information without the dealer's consent;
- Failing to reimburse a dealer for the reasonable cost of providing a loaner vehicle, if the dealer is required by the licensee to provide a loaner;
- Offering a dealer a franchise agreement that:
 - Requires the dealer to bring administrative actions, legal actions, arbitration, or mediation in a venue outside of the state; or
 - Requires that a law of another state be applied to legal proceedings between the licensee and dealer;
- Including in any franchise agreement with a dealer, a mandatory obligation of the dealer to purchase, sell, lease, or offer any quantity of used motor vehicles;
- Refusing to sell vehicles to a dealer because the dealer has not purchased, sold, leased, or certified a certain quantity of used vehicles prescribed by the licensee;
- Failing to pay a dealer as required;
- Refusing to allow, limiting, or restricting dealers from acquiring or adding service or sale operations for another line-make of vehicles, without demonstrating justification for such refusal, limit, or restriction;
- Failing or refusing to offer an incentive or benefit, in whole or in part, to all its same line-make dealers, unless the program in this state is reasonably supported by substantially different economic or marketing considerations; and
- Requiring or coercing a dealer to purchase goods or services from a vendor selected by the licensee without making available to the dealer the option to obtain substantially similar goods or services from a vendor chosen by the dealer. This does not include:
 - Materials subject to the licensee's intellectual property rights;
 - Special tools or training required by the licensee;
 - Parts used in repairs under warranty obligations of the licensee;
 - Any goods or services paid for entirely by the licensee; or
 - Any licensee's design or architectural review service.

Procedure for Administrative Hearings and Adjudications

A dealer who is directly and adversely affected by the action or conduct of a licensee that is alleged to be in violation of the act may seek a declaration and adjudication of its rights by either filing a request with the DHSMV for a proceeding and administrative hearing, or filing a written objection or notice of protest with the DHSMV.⁹

⁸ Exceptions are provided for acts of God, work stoppage, delays due to a strike or labor difficulty, a freight embargo, product shortage, or other cause, that the licensee cannot control. Additionally, the licensee can reasonably require the dealer to purchase special tools to service such vehicles or service person training related to the vehicle.

⁹ Section 320.699(1), F.S.

Hearings are held no sooner than 180 days nor later than 240 days from the date a written objection or notice of protest is filed, unless extended with good cause by the administrative law judge.¹⁰

Civil Damages

A motor vehicle dealer who can demonstrate that a violation or failure to comply with any of these provisions by an applicant or licensee will or can adversely and pecuniarily affect the dealer may pursue an injunction against the licensee, treble damages, and attorney's fees.¹¹ The licensee has the burden to prove that such violation did not occur upon a prima facie showing by the person bringing the action.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 320.64, F.S., relating to acts an applicant or licensee is prohibited from committing. A violation is grounds for the DHSMV to deny, suspend, or revoke the license. The bill provides that:

- A dealer who completes any licensee-approved program related to facility construction, improvements, renovations, expansion, remodeling, or alterations or installation of signs or other image elements is in full compliance with the licensee's requirements related to the new, remodeled, improved, renovated, expanded, replaced, or altered facilities, signs, and image elements for a ten-year period following such completion; and
- A dealer who has completed a prior approved facility incentive program, standard, or policy during the ten-year period but does not comply with the provisions related to facility, sign, or image under a revised or new incentive program is not eligible for the revised or new benefits, but is entitled to all prior benefits plus any increase in benefits between the prior program and the revised or new programs during the remainder of the ten-year period.

The bill also prohibits an applicant or licensee from establishing, implementing, or enforcing criteria for measuring sales or service performance of franchised dealers which have a negative material or adverse effect on any dealer and are unfair, unreasonable, arbitrary, or inequitable, or which do not include all applicable local and regional criteria, data, and facts. A licensee, common entity, or affiliate thereof that seeks to establish, implement, or enforce such performance measurements must, upon request of the dealer, describe in writing how the performance measurement criteria were designed, calculated, established, and uniformly applied.

Section 2 reenacts s. 320.6992, F.S., concerning applicability of amendments made to the Florida Automobile Dealers Act.

Section 3 reenacts the remaining sections of the Florida Automobile Dealers Act (ss. 320.60-320.70, F.S.) to incorporate the amendments made by the bill.

Section 4 provides that the bill takes effect upon becoming law.

¹⁰ Section 320.699(2), F.S.

¹¹ See ss. 320.64, 320.694, and 320.697, F.S.

¹² Section 320.697, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent the agreements between licensees and dealers change, the parties could experience a positive or negative impact.

C. Government Sector Impact:

The bill does not appear to have a significant fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.¹³ “[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear.”¹⁴ If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.¹⁵ The factors that a court will consider when balancing the impairment of contracts with the public purpose include whether the law:

- Was enacted to deal with a broad, generalized economic or social problem;

¹³ U.S. Const. Article I, s. 10; Art. I, s. 10, Fla. Const.

¹⁴ *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So. 2d 774, 779 (Fla. 1979) (quoting *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244-45 (1978)). See also, *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

¹⁵ *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So. 2d 681, 683 (Fla. 1980); *Yellow Cab Co. of Dade County v. Dade County*, 412 So. 2d 395, 397 (Fla. 3d DCA 1982) (citing *United States Trust Co. v. New Jersey*, 431 U.S. 1 (1977)).

- Operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and
- Results in a temporary alteration of the contractual relationships of those within its scope, or whether it permanently and immediately changes those contractual relationships, irrevocably and retroactively.¹⁶

Some state laws regulating contracts between automobile manufacturers and dealers have been found to violate the constitution, while other laws have been upheld as constitutional.¹⁷

VIII. Statutes Affected:

This bill substantially amends section 320.64 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 320.60, 320.605, 320.61, 320.615, 320.62, 320.63, 320.6403, 320.6405, 320.641, 320.6412, 320.6415, 320.642, 320.643, 320.644, 320.645, 320.646, 320.664, 320.67, 320.68, 320.69, 320.695, 320.696, 320.697, 320.6975, 320.698, 320.699, 320.69915, 320.6992, and 320.70.

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 Transportation on April 4, 2017:

The CS removes provisions of the original bill, and reenacts ss. 320.60-320.70, F.S. Specifically, the CS:

- Removes language added to 320.64, F.S., authorizing the DHSMV to deny, suspend, or revoke an applicant or licensee’s license for not “acting in good faith or dealing fairly” with franchise dealers;
- Removes the creation of s. 320.648, F.S., prohibiting licensees from committing discriminatory practices against dealers; and
- Removes language added to s. 320.699, F.S., allowing dealers to file with any court of competent jurisdiction when seeking a declaration and adjudication against a licensee.

B. Amendments:

None.

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

¹⁶ See *supra*, note 28; see also, *Vesta Fire Ins. Corp. v. State of Fla.*, 141 F. 3d 1427, 1433 (11th Cir. 1998).

¹⁷ See *Alliance of Auto. Mfrs., Inc. v. Currey*, 984 F. Supp. 2d 32 (D. Conn. 2013) (upholding state law that revised statutory method for calculating reasonable compensation for vehicle warranty work and prohibited manufacturers from recovering any additional cost of the new method from the dealers); *Arapahoe Motors, Inc. v. Gen. Motors Corp.*, No. CIV. A. 99 N 1985, 2001 WL 36400171, at 13 (D. Colo. Mar. 28, 2001) (the retroactive application of state law would be unconstitutional as it would create a new obligation or impose a new duty upon General Motors).

By the Committee on Transportation; and Senator Garcia

596-03406-17

20171678c1

1 A bill to be entitled
 2 An act relating to motor vehicle applicants,
 3 licensees, and dealers; amending s. 320.64, F.S.;
 4 providing that a motor vehicle dealer who constructs
 5 or alters sales or service facilities in reliance upon
 6 a program or incentive offered by an applicant or
 7 licensee is deemed to be in compliance with certain
 8 requirements for a specified period; specifying
 9 eligibility for benefits under a revised or new
 10 program, standard, policy, bonus, incentive, rebate,
 11 or other benefit; providing construction; authorizing
 12 denial, suspension, or revocation of the license of an
 13 applicant or licensee who establishes certain
 14 performance measurement criteria that have a material
 15 or adverse effect on motor vehicle dealers; requiring
 16 an applicant, licensee, or common entity, or an
 17 affiliate thereof, under certain circumstances and
 18 upon the request of the motor vehicle dealer, to
 19 describe in writing to the motor vehicle dealer how
 20 certain performance measurement criteria were
 21 designed, calculated, established, and uniformly
 22 applied; reenacting s. 320.6992, F.S., relating to
 23 provisions that apply to all systems of distribution
 24 of motor vehicles in this state, to incorporate the
 25 amendment made to s. 320.64, F.S., in references
 26 thereto; reenacting ss. 320.60, 320.605, 320.61,
 27 320.615, 320.62, 320.63, 320.6403, 320.6405, 320.641,
 28 320.6412, 320.6415, 320.642, 320.643, 320.644,
 29 320.645, 320.646, 320.664, 320.67, 320.68, 320.69,

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30 320.695, 320.696, 320.697, 320.6975, 320.698, 320.699,
 31 320.69915, and 320.70, F.S., to incorporate the
 32 amendment made to s. 320.64, F.S.; providing an
 33 effective date.
 34

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

36
 37 Section 1. Section 320.64, Florida Statutes, is amended to
 38 read:
 39 320.64 Denial, suspension, or revocation of license;
 40 grounds.—A license of a licensee under s. 320.61 may be denied,
 41 suspended, or revoked within the entire state or at any specific
 42 location or locations within the state at which the applicant or
 43 licensee engages or proposes to engage in business, upon proof
 44 that the section was violated with sufficient frequency to
 45 establish a pattern of wrongdoing, and a licensee or applicant
 46 shall be liable for claims and remedies provided in ss. 320.695
 47 and 320.697 for any violation of any of the following
 48 provisions. A licensee is prohibited from committing the
 49 following acts:
 50 (1) The applicant or licensee is determined to be unable to
 51 carry out contractual obligations with its motor vehicle
 52 dealers.
 53 (2) The applicant or licensee has knowingly made a material
 54 misstatement in its application for a license.
 55 (3) The applicant or licensee willfully has failed to
 56 comply with significant provisions of ss. 320.60-320.70 or with
 57 any lawful rule or regulation adopted or promulgated by the
 58 department.

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59 (4) The applicant or licensee has indulged in any illegal
60 act relating to his or her business.

61 (5) The applicant or licensee has coerced or attempted to
62 coerce any motor vehicle dealer into accepting delivery of any
63 motor vehicle or vehicles or parts or accessories therefor or
64 any other commodities which have not been ordered by the dealer.

65 (6) The applicant or licensee has coerced or attempted to
66 coerce any motor vehicle dealer to enter into any agreement with
67 the licensee.

68 (7) The applicant or licensee has threatened to
69 discontinue, cancel, or not to renew a franchise agreement of a
70 licensed motor vehicle dealer, where the threatened
71 discontinuation, cancellation, or nonrenewal, if implemented,
72 would be in violation of any of the provisions of s. 320.641.

73 (8) The applicant or licensee discontinued, canceled, or
74 failed to renew, a franchise agreement of a licensed motor
75 vehicle dealer in violation of any of the provisions of s.
76 320.641.

77 (9) The applicant or licensee has threatened to modify or
78 replace, or has modified or replaced, a franchise agreement with
79 a succeeding franchise agreement which would adversely alter the
80 rights or obligations of a motor vehicle dealer under an
81 existing franchise agreement or which substantially impairs the
82 sales, service obligations, or investment of the motor vehicle
83 dealer.

84 (10) (a) The applicant or licensee has attempted to enter,
85 or has entered, into a franchise agreement with a motor vehicle
86 dealer who does not, at the time of the franchise agreement,
87 have proper facilities to provide the services to his or her

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88 purchasers of new motor vehicles which are covered by the new
89 motor vehicle warranty issued by the applicant or licensee.

90 (b) Notwithstanding any provision of a franchise, a
91 licensee may not require a motor vehicle dealer, by agreement,
92 program, policy, standard, or otherwise, to make substantial
93 changes, alterations, or remodeling to, or to replace a motor
94 vehicle dealer's sales or service facilities unless the
95 licensee's requirements are reasonable and justifiable in light
96 of the current and reasonably foreseeable projections of
97 economic conditions, financial expectations, and the motor
98 vehicle dealer's market for the licensee's motor vehicles.

99 (c) A licensee may, however, consistent with the licensee's
100 allocation obligations at law and to its other same line-make
101 motor vehicle dealers, provide to a motor vehicle dealer a
102 commitment to supply additional vehicles or provide a loan or
103 grant of money as an inducement for the motor vehicle dealer to
104 expand, improve, remodel, alter, or renovate its facilities if
105 the provisions of the commitment are contained in a writing
106 voluntarily agreed to by the dealer and are made available, on
107 substantially similar terms, to any of the licensee's other same
108 line-make dealers in this state who voluntarily agree to make a
109 substantially similar facility expansion, improvement,
110 remodeling, alteration, or renovation.

111 (d) Except as provided in paragraph (c), subsection (36),
112 or as otherwise provided by law, this subsection does not
113 require a licensee to provide financial support for, or
114 contribution to, the purchase or sale of the assets of or equity
115 in a motor vehicle dealer or a relocation of a motor vehicle
116 dealer because such support has been provided to other

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117 purchases, sales, or relocations.

118 (e) A licensee or its common entity may not take or
119 threaten to take any action that is unfair or adverse to a
120 dealer who does not enter into an agreement with the licensee
121 pursuant to paragraph (c).

122 (f) This subsection does not affect any contract between a
123 licensee and any of its dealers regarding relocation, expansion,
124 improvement, remodeling, renovation, or alteration which exists
125 on the effective date of this act.

126 (g) A licensee may set and uniformly apply reasonable
127 standards for a motor vehicle dealer's sales and service
128 facilities which are related to upkeep, repair, and cleanliness.

129 (h) A violation of paragraphs (b) through (g) is not a
130 violation of s. 320.70 and does not subject any licensee to any
131 criminal penalty under s. 320.70.

132 (i) 1. If an applicant or licensee establishes a program,
133 standard, or policy or in any manner offers a bonus, incentive,
134 rebate, or other benefit to a motor vehicle dealer which is
135 based, in whole or in part, on the construction of new sales or
136 service facilities or the remodeling, improvement, renovation,
137 expansion, replacement, or other alteration of the motor vehicle
138 dealer's existing sales or service facilities, including
139 installation of signs or other image elements, a motor vehicle
140 dealer who completes such construction, alteration, or
141 installation in reliance upon such program, standard, policy,
142 bonus, incentive, rebate, or other benefit is deemed to be in
143 full compliance with the applicant's or licensee's requirements
144 related to the new, remodeled, improved, renovated, expanded,
145 replaced, or altered facilities, signs, and image elements for

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146 10 years after such completion.

147 2. If, during such 10-year period, the applicant or
148 licensee revises an existing, or establishes a new, program,
149 standard, policy, bonus, incentive, rebate, or other benefit
150 described in subparagraph 1., a motor vehicle dealer who
151 completed a facility in reliance upon a prior program, standard,
152 policy, bonus, incentive, rebate, or other benefit and elects
153 not to comply with the applicant's or licensee's requirements
154 for facilities, signs, or image elements under the revised or
155 new program, standard, policy, bonus, incentive, rebate, or
156 other benefit will not be eligible for any benefit under the
157 revised or new program but shall remain entitled to all benefits
158 under the prior program, plus any increase in benefits between
159 the prior and revised or new programs, during the remainder of
160 the 10-year period.

161
162 This paragraph does not obviate, affect, alter, or diminish the
163 provisions of subsection (38).

164 (11) The applicant or licensee has coerced a motor vehicle
165 dealer to provide installment financing for the motor vehicle
166 dealer's purchasers with a specified financial institution.

167 (12) The applicant or licensee has advertised, printed,
168 displayed, published, distributed, broadcast, or televised, or
169 caused or permitted to be advertised, printed, displayed,
170 published, distributed, broadcast, or televised, in any manner
171 whatsoever, any statement or representation with regard to the
172 sale or financing of motor vehicles which is false, deceptive,
173 or misleading.

174 (13) The applicant or licensee has sold, exchanged, or

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175 rented a motorcycle which produces in excess of 5 brake
 176 horsepower, knowing the use thereof to be by, or intended for,
 177 the holder of a restricted Florida driver license.

178 (14) The applicant or licensee has engaged in previous
 179 conduct which would have been a ground for revocation or
 180 suspension of a license if the applicant or licensee had been
 181 licensed.

182 (15) The applicant or licensee, directly or indirectly,
 183 through the actions of any parent of the licensee, subsidiary of
 184 the licensee, or common entity causes a termination,
 185 cancellation, or nonrenewal of a franchise agreement by a
 186 present or previous distributor or importer unless, by the
 187 effective date of such action, the applicant or licensee offers
 188 the motor vehicle dealer whose franchise agreement is
 189 terminated, canceled, or not renewed a franchise agreement
 190 containing substantially the same provisions contained in the
 191 previous franchise agreement or files an affidavit with the
 192 department acknowledging its undertaking to assume and fulfill
 193 the rights, duties, and obligations of its predecessor
 194 distributor or importer under the terminated, canceled, or
 195 nonrenewed franchise agreement and the same is reinstated.

196 (16) Notwithstanding the terms of any franchise agreement,
 197 the applicant or licensee prevents or refuses to accept the
 198 succession to any interest in a franchise agreement by any legal
 199 heir or devisee under the will of a motor vehicle dealer or
 200 under the laws of descent and distribution of this state;
 201 provided, the applicant or licensee is not required to accept a
 202 succession where such heir or devisee does not meet licensee's
 203 written, reasonable, and uniformly applied minimal standard

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204 qualifications for dealer applicants or which, after notice and
 205 administrative hearing pursuant to chapter 120, is demonstrated
 206 to be detrimental to the public interest or to the
 207 representation of the applicant or licensee. Nothing contained
 208 herein, however, shall prevent a motor vehicle dealer, during
 209 his or her lifetime, from designating any person as his or her
 210 successor in interest by written instrument filed with and
 211 accepted by the applicant or licensee. A licensee who rejects
 212 the successor transferee under this subsection shall have the
 213 burden of establishing in any proceeding where such rejection is
 214 in issue that the rejection of the successor transferee complies
 215 with this subsection.

216 (17) The applicant or licensee has included in any
 217 franchise agreement with a motor vehicle dealer terms or
 218 provisions that are contrary to, prohibited by, or otherwise
 219 inconsistent with the provisions contained in ss. 320.60-320.70,
 220 or has failed to include in such franchise agreement a provision
 221 conforming to the requirements of s. 320.63(3).

222 (18) The applicant or licensee has established a system of
 223 motor vehicle allocation or distribution or has implemented a
 224 system of allocation or distribution of motor vehicles to one or
 225 more of its franchised motor vehicle dealers which reduces or
 226 alters allocations or supplies of new motor vehicles to the
 227 dealer to achieve, directly or indirectly, a purpose that is
 228 prohibited by ss. 320.60-320.70, or which otherwise is unfair,
 229 inequitable, unreasonably discriminatory, or not supportable by
 230 reason and good cause after considering the equities of the
 231 affected motor vehicles dealer or dealers. An applicant or
 232 licensee shall maintain for 3 years records that describe its

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233 methods or formula of allocation and distribution of its motor
 234 vehicles and records of its actual allocation and distribution
 235 of motor vehicles to its motor vehicle dealers in this state. As
 236 used in this subsection, "unfair" includes, without limitation,
 237 the refusal or failure to offer to any dealer an equitable
 238 supply of new vehicles under its franchise, by model, mix, or
 239 colors as the licensee offers or allocates to its other same
 240 line-make dealers in the state.

241 (19) The applicant or licensee, without good and fair
 242 cause, has delayed, refused, or failed to provide a supply of
 243 motor vehicles by series in reasonable quantities, including the
 244 models publicly advertised by the applicant or licensee as being
 245 available, or has delayed, refused, or failed to deliver motor
 246 vehicle parts and accessories within a reasonable time after
 247 receipt of an order by a franchised dealer. However, this
 248 subsection is not violated if such failure is caused by acts or
 249 causes beyond the control of the applicant or licensee.

250 (20) The applicant or licensee has required, or threatened
 251 to require, a motor vehicle dealer to prospectively assent to a
 252 release, assignment, novation, waiver, or estoppel, which
 253 instrument or document operates, or is intended by the applicant
 254 or licensee to operate, to relieve any person from any liability
 255 or obligation under the provisions of ss. 320.60-320.70.

256 (21) The applicant or licensee has threatened or coerced a
 257 motor vehicle dealer toward conduct or action whereby the dealer
 258 would waive or forego its right to protest the establishment or
 259 relocation of a motor vehicle dealer in the community or
 260 territory serviced by the threatened or coerced dealer.

261 (22) The applicant or licensee has refused to deliver, in

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262 reasonable quantities and within a reasonable time, to any duly
 263 licensed motor vehicle dealer who has an agreement with such
 264 applicant or licensee for the retail sale of new motor vehicles
 265 and parts for motor vehicles sold or distributed by the
 266 applicant or licensee, any such motor vehicles or parts as are
 267 covered by such agreement. Such refusal includes the failure to
 268 offer to its same line-make franchised motor vehicle dealers all
 269 models manufactured for that line-make, or requiring a dealer to
 270 pay any extra fee, require a dealer to execute a separate
 271 franchise agreement, purchase unreasonable advertising displays
 272 or other materials, or relocate, expand, improve, remodel,
 273 renovate, recondition, or alter the dealer's existing
 274 facilities, or provide exclusive facilities as a prerequisite to
 275 receiving a model or series of vehicles. However, the failure to
 276 deliver any motor vehicle or part will not be considered a
 277 violation of this section if the failure is due to an act of
 278 God, work stoppage, or delay due to a strike or labor
 279 difficulty, a freight embargo, product shortage, or other cause
 280 over which the applicant or licensee has no control. An
 281 applicant or licensee may impose reasonable requirements on the
 282 motor vehicle dealer, other than the items listed above,
 283 including, but not limited to, the purchase of special tools
 284 required to properly service a motor vehicle and the undertaking
 285 of sales person or service person training related to the motor
 286 vehicle.

287 (23) The applicant or licensee has competed or is competing
 288 with respect to any activity covered by the franchise agreement
 289 with a motor vehicle dealer of the same line-make located in
 290 this state with whom the applicant or licensee has entered into

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291 a franchise agreement, except as permitted in s. 320.645.

292 (24) The applicant or licensee has sold a motor vehicle to
 293 any retail consumer in the state except through a motor vehicle
 294 dealer holding a franchise agreement for the line-make that
 295 includes the motor vehicle. This section does not apply to sales
 296 by the applicant or licensee of motor vehicles to its current
 297 employees, employees of companies affiliated by common
 298 ownership, charitable not-for-profit-organizations, and the
 299 federal government.

300 (25) The applicant or licensee has undertaken or engaged in
 301 an audit of warranty, maintenance, and other service-related
 302 payments or incentive payments, including payments to a motor
 303 vehicle dealer under any licensee-issued program, policy, or
 304 other benefit, which were previously paid to a motor vehicle
 305 dealer in violation of this section or has failed to comply with
 306 any of its obligations under s. 320.696. An applicant or
 307 licensee may reasonably and periodically audit a motor vehicle
 308 dealer to determine the validity of paid claims as provided in
 309 s. 320.696. Audits of warranty, maintenance, and other service-
 310 related payments shall be performed by an applicant or licensee
 311 only during the 12-month period immediately following the date
 312 the claim was paid. Audits of incentive payments shall be
 313 performed only during the 12-month period immediately following
 314 the date the incentive was paid. As used in this section, the
 315 term "incentive" includes any bonus, incentive, or other
 316 monetary or nonmonetary consideration. After such time periods
 317 have elapsed, all warranty, maintenance, and other service-
 318 related payments and incentive payments shall be deemed final
 319 and incontrovertible for any reason notwithstanding any

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320 otherwise applicable law, and the motor vehicle dealer shall not
 321 be subject to any chargeback or repayment. An applicant or
 322 licensee may deny a claim or, as a result of a timely conducted
 323 audit, impose a chargeback against a motor vehicle dealer for
 324 warranty, maintenance, or other service-related payments or
 325 incentive payments only if the applicant or licensee can show
 326 that the warranty, maintenance, or other service-related claim
 327 or incentive claim was false or fraudulent or that the motor
 328 vehicle dealer failed to substantially comply with the
 329 reasonable written and uniformly applied procedures of the
 330 applicant or licensee for such repairs or incentives, but only
 331 for that portion of the claim so shown. Notwithstanding the
 332 terms of any franchise agreement, guideline, program, policy, or
 333 procedure, an applicant or licensee may deny or charge back only
 334 that portion of a warranty, maintenance, or other service-
 335 related claim or incentive claim which the applicant or licensee
 336 has proven to be false or fraudulent or for which the dealer
 337 failed to substantially comply with the reasonable written and
 338 uniformly applied procedures of the applicant or licensee for
 339 such repairs or incentives, as set forth in this subsection. An
 340 applicant or licensee may not charge back a motor vehicle dealer
 341 subsequent to the payment of a warranty, maintenance, or
 342 service-related claim or incentive claim unless, within 30 days
 343 after a timely conducted audit, a representative of the
 344 applicant or licensee first meets in person, by telephone, or by
 345 video teleconference with an officer or employee of the dealer
 346 designated by the motor vehicle dealer. At such meeting the
 347 applicant or licensee must provide a detailed explanation, with
 348 supporting documentation, as to the basis for each of the claims

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349 for which the applicant or licensee proposed a chargeback to the
 350 dealer and a written statement containing the basis upon which
 351 the motor vehicle dealer was selected for audit or review.
 352 Thereafter, the applicant or licensee must provide the motor
 353 vehicle dealer's representative a reasonable period after the
 354 meeting within which to respond to the proposed chargebacks,
 355 with such period to be commensurate with the volume of claims
 356 under consideration, but in no case less than 45 days after the
 357 meeting. The applicant or licensee is prohibited from changing
 358 or altering the basis for each of the proposed chargebacks as
 359 presented to the motor vehicle dealer's representative following
 360 the conclusion of the audit unless the applicant or licensee
 361 receives new information affecting the basis for one or more
 362 chargebacks and that new information is received within 30 days
 363 after the conclusion of the timely conducted audit. If the
 364 applicant or licensee claims the existence of new information,
 365 the dealer must be given the same right to a meeting and right
 366 to respond as when the chargeback was originally presented.
 367 After all internal dispute resolution processes provided through
 368 the applicant or licensee have been completed, the applicant or
 369 licensee shall give written notice to the motor vehicle dealer
 370 of the final amount of its proposed chargeback. If the dealer
 371 disputes that amount, the dealer may file a protest with the
 372 department within 30 days after receipt of the notice. If a
 373 protest is timely filed, the department shall notify the
 374 applicant or licensee of the filing of the protest, and the
 375 applicant or licensee may not take any action to recover the
 376 amount of the proposed chargeback until the department renders a
 377 final determination, which is not subject to further appeal,

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378 that the chargeback is in compliance with the provisions of this
 379 section. In any hearing pursuant to this subsection, the
 380 applicant or licensee has the burden of proof that its audit and
 381 resulting chargeback are in compliance with this subsection.

382 (26) Notwithstanding the terms of any franchise agreement,
 383 including any licensee's program, policy, or procedure, the
 384 applicant or licensee has refused to allocate, sell, or deliver
 385 motor vehicles; charged back or withheld payments or other
 386 things of value for which the dealer is otherwise eligible under
 387 a sales promotion, program, or contest; prevented a motor
 388 vehicle dealer from participating in any promotion, program, or
 389 contest; or has taken or threatened to take any adverse action
 390 against a dealer, including chargebacks, reducing vehicle
 391 allocations, or terminating or threatening to terminate a
 392 franchise because the dealer sold or leased a motor vehicle to a
 393 customer who exported the vehicle to a foreign country or who
 394 resold the vehicle, unless the licensee proves that the dealer
 395 knew or reasonably should have known that the customer intended
 396 to export or resell the motor vehicle. There is a rebuttable
 397 presumption that the dealer neither knew nor reasonably should
 398 have known of its customer's intent to export or resell the
 399 vehicle if the vehicle is titled or registered in any state in
 400 this country. A licensee may not take any action against a motor
 401 vehicle dealer, including reducing its allocations or supply of
 402 motor vehicles to the dealer or charging back to a dealer any
 403 incentive payment previously paid, unless the licensee first
 404 meets in person, by telephone, or video conference with an
 405 officer or other designated employee of the dealer. At such
 406 meeting, the licensee must provide a detailed explanation, with

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407 supporting documentation, as to the basis for its claim that the
 408 dealer knew or reasonably should have known of the customer's
 409 intent to export or resell the motor vehicle. Thereafter, the
 410 motor vehicle dealer shall have a reasonable period,
 411 commensurate with the number of motor vehicles at issue, but not
 412 less than 15 days, to respond to the licensee's claims. If,
 413 following the dealer's response and completion of all internal
 414 dispute resolution processes provided through the applicant or
 415 licensee, the dispute remains unresolved, the dealer may file a
 416 protest with the department within 30 days after receipt of a
 417 written notice from the licensee that it still intends to take
 418 adverse action against the dealer with respect to the motor
 419 vehicles still at issue. If a protest is timely filed, the
 420 department shall notify the applicant or licensee of the filing
 421 of the protest, and the applicant or licensee may not take any
 422 action adverse to the dealer until the department renders a
 423 final determination, which is not subject to further appeal,
 424 that the licensee's proposed action is in compliance with the
 425 provisions of this subsection. In any hearing pursuant to this
 426 subsection, the applicant or licensee has the burden of proof on
 427 all issues raised by this subsection. An applicant or licensee
 428 may not take any adverse action against a motor vehicle dealer
 429 because the dealer sold or leased a motor vehicle to a customer
 430 who exported the vehicle to a foreign country or who resold the
 431 vehicle unless the applicant or licensee provides written
 432 notification to the motor vehicle dealer of such resale or
 433 export within 12 months after the date the dealer sold or leased
 434 the vehicle to the customer.

435 (27) Notwithstanding the terms of any franchise agreement,

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436 the applicant or licensee has failed or refused to indemnify and
 437 hold harmless any motor vehicle dealer against any judgment for
 438 damages, or settlements agreed to by the applicant or licensee,
 439 including, without limitation, court costs and reasonable
 440 ~~attorney~~ attorneys fees, arising out of complaints, claims, or
 441 lawsuits, including, without limitation, strict liability,
 442 negligence, misrepresentation, express or implied warranty, or
 443 revocation or rescission of acceptance of the sale of a motor
 444 vehicle, to the extent the judgment or settlement relates to the
 445 alleged negligent manufacture, design, or assembly of motor
 446 vehicles, parts, or accessories. Nothing herein shall obviate
 447 the licensee's obligations pursuant to chapter 681.

448 (28) The applicant or licensee has published, disclosed, or
 449 otherwise made available in any form information provided by a
 450 motor vehicle dealer with respect to sales prices of motor
 451 vehicles or profit per motor vehicle sold. Other confidential
 452 financial information provided by motor vehicle dealers shall
 453 not be published, disclosed, or otherwise made publicly
 454 available except in composite form. However, this information
 455 may be disclosed with the written consent of the dealer or in
 456 response to a subpoena or order of the department, a court or a
 457 lawful tribunal, or introduced into evidence in such a
 458 proceeding, after timely notice to an affected dealer.

459 (29) The applicant or licensee has failed to reimburse a
 460 motor vehicle dealer in full for the reasonable cost of
 461 providing a loaner vehicle to any customer who is having a
 462 vehicle serviced at the motor vehicle dealer, if a loaner is
 463 required by the applicant or licensee, or a loaner is expressly
 464 part of an applicant or licensee's customer satisfaction index

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465 or computation.

466 (30) The applicant or licensee has conducted or threatened
467 to conduct any audit of a motor vehicle dealer in order to
468 coerce or attempt to coerce the dealer to forego any rights
469 granted to the dealer under ss. 320.60-320.70 or under the
470 agreement between the licensee and the motor vehicle dealer.
471 Nothing in this section shall prohibit an applicant or licensee
472 from reasonably and periodically auditing a dealer to determine
473 the validity of paid claims, as permitted under this chapter, if
474 the licensee complies with the provisions of ss. 320.60-320.70
475 applicable to such audits.

476 (31) From and after the effective date of enactment of this
477 provision, the applicant or licensee has offered to any motor
478 vehicle dealer a franchise agreement that:

479 (a) Requires that a motor vehicle dealer bring an
480 administrative or legal action in a venue outside of this state;

481 (b) Requires that any arbitration, mediation, or other
482 legal proceeding be conducted outside of this state; or

483 (c) Requires that a law of a state other than Florida be
484 applied to any legal proceeding between a motor vehicle dealer
485 and a licensee.

486 (32) Notwithstanding the terms of any franchise agreement,
487 the applicant or licensee has rejected or withheld approval of
488 any proposed transfer in violation of s. 320.643 or a proposed
489 change of executive management in violation of s. 320.644.

490 (33) The applicant or licensee has attempted to sell or
491 lease, or has sold or leased, used motor vehicles at retail of a
492 line-make that is the subject of any franchise agreement with a
493 motor vehicle dealer in this state, other than trucks with a net

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494 weight of more than 8,000 pounds.

495 (34) The applicant or licensee, after the effective date of
496 this subsection, has included in any franchise agreement with a
497 motor vehicle dealer a mandatory obligation or requirement of
498 the motor vehicle dealer to purchase, sell, or lease, or offer
499 for purchase, sale, or lease, any quantity of used motor
500 vehicles.

501 (35) The applicant or licensee has refused to assign
502 allocation earned by a motor vehicle dealer, or has refused to
503 sell motor vehicles to a motor vehicle dealer, because the motor
504 vehicle dealer has failed or refused to purchase, sell, lease,
505 or certify a certain quantity of used motor vehicles prescribed
506 by the licensee.

507 (36) (a) Notwithstanding the terms of any franchise
508 agreement, in addition to any other statutory or contractual
509 rights of recovery after the voluntary or involuntary
510 termination, cancellation, or nonrenewal of a franchise, failing
511 to pay the motor vehicle dealer, as provided in paragraph (d),
512 the following amounts:

513 1. The net cost paid by the dealer for each new car or
514 truck in the dealer's inventory with mileage of 2,000 miles or
515 less, or a motorcycle with mileage of 100 miles or less,
516 exclusive of mileage placed on the vehicle before it was
517 delivered to the dealer.

518 2. The current price charged for each new, unused,
519 undamaged, or unsold part or accessory that:

520 a. Is in the current parts catalogue and is still in the
521 original, resalable merchandising package and in an unbroken
522 lot, except that sheet metal may be in a comparable substitute

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523 for the original package; and

524 b. Was purchased by the dealer directly from the
525 manufacturer or distributor or from an outgoing authorized
526 dealer as a part of the dealer's initial inventory.

527 3. The fair market value of each undamaged sign owned by
528 the dealer which bears a trademark or trade name used or claimed
529 by the applicant or licensee or its representative which was
530 purchased from or at the request of the applicant or licensee or
531 its representative.

532 4. The fair market value of all special tools, data
533 processing equipment, and automotive service equipment owned by
534 the dealer which:

535 a. Were recommended in writing by the applicant or licensee
536 or its representative and designated as special tools and
537 equipment;

538 b. Were purchased from or at the request of the applicant
539 or licensee or its representative; and

540 c. Are in usable and good condition except for reasonable
541 wear and tear.

542 5. The cost of transporting, handling, packing, storing,
543 and loading any property subject to repurchase under this
544 section.

545 (b) If the termination, cancellation, or nonrenewal of the
546 dealer's franchise is the result of the bankruptcy or
547 reorganization of a licensee or its common entity, or the result
548 of a licensee's plan, scheme, or policy, whether or not publicly
549 declared, which is intended to or has the effect of decreasing
550 the number of, or eliminating, the licensee's franchised motor
551 vehicle dealers of a line-make in this state, or the result of a

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552 termination, elimination, or cessation of manufacture or
553 reorganization of a licensee or its common entity, or the result
554 of a termination, elimination, or cessation of manufacture or
555 distribution of a line-make, in addition to the above payments
556 to the dealer, the licensee or its common entity, shall be
557 liable to and shall pay the motor vehicle dealer for an amount
558 at least equal to the fair market value of the franchise for the
559 line-make, which shall be the greater of the value determined as
560 of the day the licensee announces the action that results in the
561 termination, cancellation, or nonrenewal, or the value
562 determined on the day that is 12 months before that date. Fair
563 market value of the franchise for the line-make includes only
564 the goodwill value of the dealer's franchise for that line-make
565 in the dealer's community or territory.

566 (c) This subsection does not apply to a termination,
567 cancellation, or nonrenewal that is implemented as a result of
568 the sale of the assets or corporate stock or other ownership
569 interests of the dealer.

570 (d) The dealer shall return the property listed in this
571 subsection to the licensee within 90 days after the effective
572 date of the termination, cancellation, or nonrenewal. The
573 licensee shall supply the dealer with reasonable instructions
574 regarding the method by which the dealer must return the
575 property. Absent shipping instructions and prepayment of
576 shipping costs from the licensee or its common entity, the
577 dealer shall tender the inventory and other items to be returned
578 at the dealer's facility. The compensation for the property
579 shall be paid by the licensee or its common entity
580 simultaneously with the tender of inventory and other items,

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581 provided that, if the dealer does not have clear title to the
 582 inventory and other items and is not in a position to convey
 583 that title to the licensee, payment for the property being
 584 returned may be made jointly to the dealer and the holder of any
 585 security interest.

586 (37) Notwithstanding the terms of any franchise agreement,
 587 the applicant or licensee has refused to allow or has limited or
 588 restricted a motor vehicle dealer from acquiring or adding a
 589 sales or service operation for another line-make of motor
 590 vehicles at the same or expanded facility at which the motor
 591 vehicle dealer currently operates a dealership unless the
 592 applicant or licensee can demonstrate that such refusal,
 593 limitation, or restriction is justified by consideration of
 594 reasonable facility and financial requirements and the dealer's
 595 performance for the existing line-make.

596 (38) The applicant or licensee has failed or refused to
 597 offer a bonus, incentive, or other benefit program, in whole or
 598 in part, to a dealer or dealers in this state which it offers to
 599 all of its other same line-make dealers nationally or to all of
 600 its other same line-make dealers in the licensee's designated
 601 zone, region, or other licensee-designated area of which this
 602 state is a part, unless the failure or refusal to offer the
 603 program in this state is reasonably supported by substantially
 604 different economic or marketing considerations than are
 605 applicable to the licensee's same line-make dealers in this
 606 state. For purposes of this chapter, a licensee may not
 607 establish this state alone as a designated zone, region, or area
 608 or any other designation for a specified territory. A licensee
 609 may offer a bonus, rebate, incentive, or other benefit program

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610 to its dealers in this state which is calculated or paid on a
 611 per vehicle basis and is related in part to a dealer's facility
 612 or the expansion, improvement, remodeling, alteration, or
 613 renovation of a dealer's facility. Any dealer who does not
 614 comply with the facility criteria or eligibility requirements of
 615 such program is entitled to receive a reasonable percentage of
 616 the bonus, incentive, rebate, or other benefit offered by the
 617 licensee under that program by complying with the criteria or
 618 eligibility requirements unrelated to the dealer's facility
 619 under that program. For purposes of the previous sentence, the
 620 percentage unrelated to the facility criteria or requirements is
 621 presumed to be "reasonable" if it is not less than 80 percent of
 622 the total of the per vehicle bonus, incentive, rebate, or other
 623 benefits offered under the program.

624 (39) Notwithstanding any agreement, program, incentive,
 625 bonus, policy, or rule, an applicant or licensee may not fail to
 626 make any payment pursuant to any agreement, program, incentive,
 627 bonus, policy, or rule for any temporary replacement motor
 628 vehicle loaned, rented, or provided by a motor vehicle dealer to
 629 or for its service or repair customers, even if the temporary
 630 replacement motor vehicle has been leased, rented, titled, or
 631 registered to the motor vehicle dealer's rental or leasing
 632 division or an entity that is owned or controlled by the motor
 633 vehicle dealer, provided that the motor vehicle dealer or its
 634 rental or leasing division or entity complies with the written
 635 and uniformly enforced vehicle eligibility, use, and reporting
 636 requirements specified by the applicant or licensee in its
 637 agreement, program, policy, bonus, incentive, or rule relating
 638 to loaner vehicles.

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639 (40) Notwithstanding the terms of any franchise agreement,
 640 the applicant or licensee may not require or coerce, or attempt
 641 to require or coerce, a motor vehicle dealer to purchase goods
 642 or services from a vendor selected, identified, or designated by
 643 the applicant or licensee, or one of its parents, subsidiaries,
 644 divisions, or affiliates, by agreement, standard, policy,
 645 program, incentive provision, or otherwise, without making
 646 available to the motor vehicle dealer the option to obtain the
 647 goods or services of substantially similar design and quality
 648 from a vendor chosen by the motor vehicle dealer. If the motor
 649 vehicle dealer exercises such option, the dealer must provide
 650 written notice of its desire to use the alternative goods or
 651 services to the applicant or licensee, along with samples or
 652 clear descriptions of the alternative goods or services that the
 653 dealer desires to use. The licensee or applicant shall have the
 654 opportunity to evaluate the alternative goods or services for up
 655 to 30 days to determine whether it will provide a written
 656 approval to the motor vehicle dealer to use said alternative
 657 goods or services. Approval may not be unreasonably withheld by
 658 the applicant or licensee. If the motor vehicle dealer does not
 659 receive a response from the applicant or licensee within 30
 660 days, approval to use the alternative goods or services is
 661 deemed granted. If a dealer using alternative goods or services
 662 complies with this subsection and has received approval from the
 663 licensee or applicant, the dealer is not ineligible for all
 664 benefits described in the agreement, standard, policy, program,
 665 incentive provision, or otherwise solely for having used such
 666 alternative goods or services. As used in this subsection, the
 667 term "goods or services" is limited to such goods and services

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

596-03406-17

20171678c1

668 used to construct or renovate dealership facilities or furniture
 669 and fixtures at the dealership facilities. The term does not
 670 include:
 671 (a) Any materials subject to the applicant's or licensee's
 672 intellectual property rights, including copyright, trademark, or
 673 trade dress rights;
 674 (b) Any special tool and training as required by the
 675 applicant or licensee;
 676 (c) Any part to be used in repairs under warranty
 677 obligations of an applicant or licensee;
 678 (d) Any good or service paid for entirely by the applicant
 679 or licensee; or
 680 (e) Any applicant's or licensee's design or architectural
 681 review service.
 682 (41) (a) The applicant or licensee has established,
 683 implemented, or enforced criteria for measuring the sales or
 684 service performance of any of its franchised motor vehicle
 685 dealers in this state which have a material or adverse effect on
 686 any motor vehicle dealer and which:
 687 1. Are unfair, unreasonable, arbitrary, or inequitable; or
 688 2. Do not include all relevant and material local and
 689 regional criteria, data, and facts. Relevant and material
 690 criteria, data, or facts include, but are not limited to, those
 691 of motor vehicle dealerships of comparable size in comparable
 692 markets. If such performance measurement criteria are based, in
 693 whole or in part, on a survey, such survey must be based on a
 694 statistically significant and valid random sample.
 695 (b) An applicant, licensee, or common entity, or an
 696 affiliate thereof, which enforces against any motor vehicle

Page 24 of 26

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

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697 dealer any such performance measurement criteria shall, upon the
 698 request of the motor vehicle dealer, describe in writing to the
 699 motor vehicle dealer, in detail, how the performance measurement
 700 criteria were designed, calculated, established, and uniformly
 701 applied.

702
 703 A motor vehicle dealer who can demonstrate that a violation of,
 704 or failure to comply with, any of the preceding provisions by an
 705 applicant or licensee will or may ~~can~~ adversely and pecuniarily
 706 affect the complaining dealer, shall be entitled to pursue all
 707 of the remedies, procedures, and rights of recovery available
 708 under ss. 320.695 and 320.697.

709 Section 2. For the purpose of incorporating the amendment
 710 made by this act to section 320.64, Florida Statutes, in
 711 references thereto, section 320.6992, Florida Statutes, is
 712 reenacted to read:

713 320.6992 Application.—Sections 320.60-320.70, including
 714 amendments to ss. 320.60-320.70, apply to all presently existing
 715 or hereafter established systems of distribution of motor
 716 vehicles in this state, except to the extent that such
 717 application would impair valid contractual agreements in
 718 violation of the State Constitution or Federal Constitution.
 719 Sections 320.60-320.70 do not apply to any judicial or
 720 administrative proceeding pending as of October 1, 1988. All
 721 agreements renewed, amended, or entered into subsequent to
 722 October 1, 1988, shall be governed by ss. 320.60-320.70,
 723 including any amendments to ss. 320.60-320.70 which have been or
 724 may be from time to time adopted, unless the amendment
 725 specifically provides otherwise, and except to the extent that

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726 such application would impair valid contractual agreements in
 727 violation of the State Constitution or Federal Constitution.

728 Section 3. Sections 320.60, 320.605, 320.61, 320.615,
 729 320.62, 320.63, 320.6403, 320.6405, 320.641, 320.6412, 320.6415,
 730 320.642, 320.643, 320.644, 320.645, 320.646, 320.664, 320.67,
 731 320.68, 320.69, 320.695, 320.696, 320.697, 320.6975, 320.698,
 732 320.699, 320.69915, and 320.70, Florida Statutes, are reenacted
 733 for the purpose of incorporating the amendment made by this act
 734 to s. 320.64, Florida Statutes.

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

The Florida Senate
State Senator René García
36th District

Please reply to:

□ **District Office:**

1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

April 4th, 2017

The Honorable Bill Montford
Chairman, Committee on Commerce and Tourism
310 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Montford,

Please have this letter serve as my formal request to have **SB 1678: Motor Vehicle Dealers** be heard during the next scheduled Commerce and Tourism Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 36

CC: Todd McKay
Gabriela Denton

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

1678
Bill Number (if applicable)

Topic _____

Name Ron Book

Amendment Barcode (if applicable) _____

Job Title _____

Address 104 W. Jefferson

Street

Phone _____

City IRIF

State

Zip

Email _____

Speaking: For Against Information

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

Representing Auto Water

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)

4/17/2017
Meeting Date

SB 1678
Bill Number (if applicable)

Topic _____

Name DAVID LEIBOWITZ

Job Title GENERAL COUNSEL

Address 2060 BISCAYNE BLVD.

Street

MIAMI

City

FL

State

33137

Zip

Phone 305-576-1889

Email _____

Speaking: For Against Information

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

Representing BRAMAN AUTOMOTIVE GROUP

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)

4/17/17
Meeting Date

1678
Bill Number (if applicable)

Topic Auto Franchise Agreements

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Attorney

Address 119 S. Monroe St. Suite 300

Phone 850-222-7500

Street

Tallahassee FL 32301

City

State

Zip

Email garyh@hgsllaw.com

Speaking: For Against Information

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

Representing Alliance of Automobile Mfgs

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)

4/17
Meeting Date

CS/SB 1678
Bill Number (if applicable)

Topic AUTO FRANCHISES

Amendment Barcode (if applicable)

Name DAVID RAMBA

Job Title RAMBA LAW GROUP

Address 120 S. MONROE ST.
Street

Phone 850.727.7087

City State Zip
32301

Email _____

Speaking: For Against Information

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

Representing FLORIDA AUTOMOBILE DEALERS 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.

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

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 Commerce and Tourism

BILL: SB 822

INTRODUCER: Senator Hutson

SUBJECT: Intrusion and Burglar Alarms

DATE: April 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	Favorable
2.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 822 clarifies that residential and commercial intrusion/burglary alarms that have central monitoring are required to make a verification call to a “telephone number associated with the premises” generating an alarm signal, if the first verification call is not answered, prior to alarm monitor personnel contacting law enforcement.

The bill also creates an exception to the verification call requirement for an intrusion/burglary alarm that is installed on a premise used for the storage of firearms or ammunition by a federally licensed firearms manufacturer, importer, or dealer. Under the bill, alarm monitor personnel may contact law enforcement agencies without first making a verification call.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

An alarm system is “any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.”¹ An alarm system includes home-automation equipment, thermostats, and video cameras. Part II of ch. 489, F.S., deals with the licensing of electrical and alarm system contractors who install such alarms.²

Licensed Alarm System Contractors

Florida law requires alarm system contractors to be licensed, have sufficient technical experience in the trade prior to licensure, and be tested on technical and business matters; the Electrical Contractors’ Licensing Board (ECLB) implements these functions under part II of ch. 489, F.S.³

¹ Section 489.505(1), F.S.

² See ss. 489.501-.538, F.S. and ss. 489.551-.558, F.S.

³ See ss. 489.507-.517, F.S.

An alarm system contractor is a person whose business includes the execution of contracts requiring the ability, experience, science, knowledge, and skill to conduct all alarm services for compensation, for all types of alarm systems for all purposes.⁴ An alarm system contractor is also any person, firm, or corporation that engages in the business of alarm contracting, or that undertakes, offers to undertake, or submits a bid to engage in the business of alarm contracting.⁵

Alarm system contractors may also hold a certificate of competency issued by the Department of Business and Professional Regulation (department).⁶ The scope of the certification is limited to specific alarm circuits and equipment, and the certificate is geographically unlimited.⁷ An alarm system contractor is not required to obtain a certificate of competency.⁸

An alarm system contractor whose business includes all types of alarm systems for all purposes is designated as an “alarm system contractor I.” The practice area of an “alarm system contractor II” is identical except that it does not include fire alarm systems.⁹

Verification of Intrusion/Burglary Alarm Signals

All residential or commercial intrusion/burglary alarms that have central monitoring must have a central monitoring verification call made to the premises generating the alarm signal, before alarm monitor personnel may contact a law enforcement agency for dispatch of law enforcement officers to the premises.¹⁰ The central monitoring station must employ call-verification methods for the premises generating the alarm signal if the first call is not answered.¹¹ Verification calling is not required, however, if the intrusion/burglary alarms have properly operating visual or auditory sensors that enable the monitoring personnel to verify the alarm signal.¹²

Electrical and Alarm Standards

Part IV of ch. 553, F.S., constitutes the Florida Building Codes Act (act). The act provides a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of the Florida Building Code, consisting of a single set of documents that apply to the design, construction, erection, alteration, modification, repair, or demolition of public or private

⁴ See s. 489.505(2), F.S.

⁵ *Id.*

⁶ See ss. 489.505(4)-(8), F.S.

⁷ Section 489.505(7), F.S. Specifically, the scope of the certification is limited to those circuits that originate in certain alarm control panels and equipment that is governed by the National Electrical Code, Current Edition, and National Fire Protection Association Standard 72, Current Edition, and includes the installation, repair, fabrication, erection, alteration, addition, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, and conduit, or any part thereof not to exceed 98 volts (RMS), when those items are for the purpose of transmitting data or proprietary video (satellite systems that are not part of a community antenna television or radio distribution system) or providing central vacuum capability or electric locks. RMS is the abbreviation for “root mean square,” a statistical term defined as the square root of mean square. See <http://www.practicalphysics.org/explaining-rms-voltage-and-current.html> (last visited Apr. 7, 2017).

⁸ *Id.*

⁹ See s. 489.505(2)(a) and (b), F.S.

¹⁰ See s. 489.529, F.S.

¹¹ *Id.*

¹² *Id.*

buildings, structures, or facilities, and to the enforcement of such requirements.¹³ The Florida Building Code is adopted, modified, updated, interpreted, and maintained by the Florida Building Commission.¹⁴

Florida's minimum electrical and alarm requirements are based on the following standards:

- National Electrical Code, NFPA¹⁵ No. 70;
- Underwriters' Laboratories, Inc. (UL), Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps, UL 57 and UL 153;
- Underwriters' Laboratories, Inc., Standard for Electric Signs, UL 48;
- The provisions of the following which prescribe minimum electrical and alarm standards:
 - NFPA No. 56A, Inhalation Anesthetics;
 - NFPA No. 56B, Respiratory Therapy;
 - NFPA No. 56C, Laboratories in Health-related Institutions;
 - NFPA No. 56D, Hyperbaric Facilities;
 - NFPA No. 56F, Nonflammable Medical Gas Systems;
 - NFPA No. 72, National Fire Alarm Code; and
 - NFPA No. 76A, Essential Electrical Systems for Health Care Facilities;
- The rules and regulations of the Department of Health, entitled "Nursing Homes and Related Facilities Licensure;" and
- The minimum standards for grounding of portable electric equipment in Florida Administrative Code Rule Chapter 8C-27, as recommended by the Division of Workers' Compensation in the Department of Financial Services.¹⁶

Federal Firearms Licenses and Firearm Theft

Individuals engaged in business as a firearms or ammunition dealer, manufacturer, or importer must obtain a federal firearms license.¹⁷ The federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) notes that each year, it receives thousands of reports of theft or loss from federally licensed firearms dealers.¹⁸ The steps that the ATF recommends to protect a firearms business include store design measures, after-hours security methods, reinforcement and narrowing of store door and window openings, alarm systems, and 24-hour video camera recording adequate to capture faces and features.¹⁹

¹³ See s. 553.72(1), F.S., which also indicates that effective and reasonable protection for public safety, health, and general welfare at the most reasonable cost to the consumer is also intended.

¹⁴ See s. 553.72(3), F.S.

¹⁵ NFPA is the acronym for the National Fire Protection Association, which is an international nonprofit organization established in 1896. Its mission is to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating consensus codes, standards, research, training, and education. NFPA develops, publishes, and disseminates more than 300 consensus codes and standards intended to minimize the possibility and effects of fire and other risks. See <http://www.nfpa.org/about-nfpa> (last visited April 12, 2017).

¹⁶ See s. 553.88, F.S.

¹⁷ A list of federal firearms licensees in Florida is available at <https://www.atf.gov/firearms/listing-federal-firearms-licensees-ffls-2017> (last visited April 13, 2017).

¹⁸ Bureau of Alcohol, Tobacco, Firearms, and Explosives, Learn About Firearms Safety and Security, available at <https://www.atf.gov/firearms/learn-about-firearms-safety-and-security> (last visited April 11, 2017).

¹⁹ *Id.*

III. Effect of Proposed Changes:

The bill amends s. 489.529, F.S., to clarify that intrusion/burglary alarms that have central monitoring are required to make a verification call to a “telephone number associated with the premises” rather than to the premises before alarm monitor personnel may contact a law enforcement agency for alarm dispatch.

Under current law, verification calling is not required if the intrusion/burglary alarm has properly operating visual or auditory sensors that enable the alarm monitoring personnel to verify the alarm signal. The bill creates another exception to verification calling to allow central monitoring stations to contact law enforcement without a verification call if the intrusion/burglary alarm is installed on a premise used for the storage of firearms or ammunition by a person who holds a valid federal firearms license as a manufacturer, importer, or dealer of firearms or ammunition.

The bill provides for an effective date of July 1, 2017.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The bill provides for improved verification of an alarm signal generated at a residential or commercial premises with a centrally monitored intrusion/burglary alarm and should assist in reducing the number of alarm dispatch calls to law enforcement officers.

Law enforcement response times to premises used for the storage of firearms or ammunition may be reduced due to the elimination of the requirement for a central monitoring verification call prior to alarm monitor personnel contacting a law enforcement agency for dispatch to such premises.

C. Government Sector Impact:

Reductions in false alarm may reduce the costs of responses to intrusion/burglary alarms by local governments and law enforcement agencies.²⁰

Reduction of false alarm calls may alleviate the associated burden to law enforcement agencies that must respond to premises generating intrusion/burglary alarms. Allowing verification calling to a telephone number associated with the premises that has a central monitoring alarm system (rather than a call to the premises generating the alarm signal) will reduce false alarms by permitting calls to persons who use cellular telephones and not landlines at the premises, and to third parties authorized to verify the validity of alarm signals generated at the premises.²¹

VI. Technical Deficiencies:

Line 27 of the bill refers to “a premises” rather than “a premise” or “the premises.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.529 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.

²⁰ For example, according to a 2014 press release by the City of St. Cloud Police Department: [i]n recent years, false alarms account for approximately 98% of all alarms to which the [St. Cloud Police Department] has had to respond. These false alarms divert law enforcement resources from crimes in progress, other emergency situations and time spent patrolling their beats. See <http://www.stcloud.org/index.aspx?NID=1066> (last visited Mar. 29, 2017).

²¹ According to the Pew Research Center, 64% of Americans owned a smartphone in 2015, up from 58% in early 2014. See <http://www.pewinternet.org/2015/04/01/chapter-one-a-portrait-of-smartphone-ownership/> (last visited Mar. 29, 2017).

By Senator Hutson

7-01278-17

2017822__

1 A bill to be entitled
2 An act relating to intrusion and burglar alarms;
3 amending s. 489.529, F.S.; providing an exclusion from
4 the requirement for a verification call prior to alarm
5 dispatch for specified premises; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 489.529, Florida Statutes, is amended to
11 read:

12 489.529 Alarm verification calls required.—All residential
13 or commercial intrusion/burglary alarms that have central
14 monitoring must have a central monitoring verification call made
15 to a telephone number associated with the premises generating
16 the alarm signal, prior to alarm monitor personnel contacting a
17 law enforcement agency for alarm dispatch. The central
18 monitoring station must employ call-verification methods for the
19 premises generating the alarm signal if the first call is not
20 answered. However, ~~if the intrusion/burglary alarms have~~
21 ~~properly operating visual or auditory sensors that enable the~~
22 ~~monitoring personnel to verify the alarm signal,~~ verification
23 calling is not required if:

24 (1) The intrusion/burglary alarm has a properly operating
25 visual or auditory sensor that enables the monitoring personnel
26 to verify the alarm signal; or

27 (2) The intrusion/burglary alarm is installed on a premises
28 that is used for the storage of firearms or ammunition by a
29 person who holds a valid federal firearms license as a
30 manufacturer, importer, or dealer of firearms or ammunition.

31 Section 2. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Bill Montford, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: April 6, 2017

I respectfully request that **Senate Bill #822**, relating to Intrusion and Burglar Alarms, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

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 Commerce and Tourism

BILL: CS/SB 1306

INTRODUCER: The Committee on Commerce and Tourism and Senator Montford

SUBJECT: Economic Programs

DATE: April 17, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Fav/CS
2.			ATD	
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1306 establishes the Florida Sports Foundation as a direct-support organization within the Department of Economic Opportunity. Additionally the bill updates law to reflect the foundation's current operations and organizational structure. Currently, the foundation serves as the Enterprise Florida, Inc., Division of Sports Industry Development.

The bill requires the Office of Program Policy and Government Accountability to report on the Microfinance Loan Program and the Microfinance Guarantee Program by January 15, 2018.

II. Present Situation:

Florida Sports Foundation

The Florida Sports Foundation (FSF) was a direct-support organization of the Office of Tourism Trade and Economic Development, prior to the governmental reorganization that created the Department of Economic Opportunity (DEO) and restructured Enterprise Florida, Inc., (EFI).¹ The FSF serves as the official sports promotion and development organization for the state and currently is housed within EFI as the Division of Sports Industry Development. The FSF's mission is to:

¹ Chapter 2011-142, L.O.F.

- Assist communities in the state with securing, hosting and retaining, sporting events that generate economic impact and sports-tourism for the state;
- Provide Floridians opportunities to participate in the Sunshine State Games and Florida Senior Games;
- Serve as the state's leading source for sports-tourism research and information;
- Assist in the promotion of targeted leisure sport industries in the state; and
- Assist national and state governing bodies to promote amateur sports development through the Sunshine State Games and hosting events in the state.

The primary activities of the FSF are operating a grant program that offers grants to local and regional sports commissions to assist in conducting professional, college, and amateur sporting events and sponsoring the Florida Senior Games and the Sunshine State Games. In its most recent report, the Legislature's Office of Economic and Demographic Research reported a return on investment of 5.61 for the FSF grant program.² The FSF operates on an annual appropriation of less than \$5 million. A majority of the appropriation is money from specialty license plate revenues, but the FSF also receives private contributions.

The FSF board of directors consists of 20 members representing various sports industry interests across the state. Entities represented include sports commissions, professional sports franchises, and private companies.³

Microfinance Programs

The state has two separate microfinance programs, the Microfinance Loan Program⁴ and the Microfinance Guarantee Program.⁵ The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans. These programs are currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

III. Effect of Proposed Changes:

Florida Sports Foundation

The bill moves the Florida Sports Foundation (FSF) from EFI to the DEO. To that end, the bill revives, readopts, and amends s. 288.1229, F.S. to reflect current FSF operations by:

² Office of Economic and Demographic Research, *Return on Investment for the Florida Sports Foundation Grants and Related Programs*, Jan 6, 2015. Available at: <http://edr.state.fl.us/Content/returnoninvestment/SportsGrantsandPrograms.pdf>, (last visited April 10, 2017)(on file with the Commerce and Tourism Committee).

³ See generally, *Florida Sports Foundation Board of Directors*, available at <http://www.flasports.com/about-us/boardofdirectors/>, (last visited April 12, 2017).

⁴ Section 288.9934, F.S.

⁵ Section 288.9935, F.S.

- Requiring the FSF board of directors to include 20 members appointed by the Governor and include:
 - Ten members representing Major League Baseball, the National Basketball Association, the National Football League, the Arena Football League, the National Hockey League, and Major League Soccer franchises in the state;
 - Two representatives of the Florida Sports Commission;
 - One representative of the boating and fishing industries;
 - One representative of the golf industry;
 - One representative of Major League Baseball spring training;
 - One representative of the auto racing industry; and
 - Four-at-large appointments;
- Permitting the FSF access to department resources approved by the DEO;
- Directing the FSF to administer the Florida Senior Games; and
- Removing dated language from the section.

Additionally, the bill amends statutory responsibilities for the DEO to contract with the FSF to promote the sports industry and participation by amateurs in athletic competitions. The bill requires the FSF to operate under contract with DEO, as a direct-support organization, by July 1, 2017.

The bill clarifies that the FSF will serve as the entity to oversee the annual use fees raised from various sports-related specialty license plates, instead of EFI. The bill removes a requirement that certain proceeds from the sale of professional sports team license plates are to be used to promote education programs related to physical activity and nutrition, in partnership with the Department of Education and the Department of Health.

Required Reporting on Microfinance Programs

The bill amends s. 288.9377, F.S., to require OPPAGA, in addition to EDR, to evaluate the Microfinance Loan Program and Microfinance Guarantee Program. Because multiple reports (e.g., the reports described above) are due January 1, 2018, the bill changes the submission date for these reports to January 15, 2018. This report is not included in the recurring review cycle and s. 288.9937, F.S., expires January 31, 2018.

Effective Date

The bill has an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Minimal. In its analysis of a different bill that moves administration of license plates from EFI to the FSF, the Department of Highway Safety and Motor Vehicles estimated it would cost the department \$1,575 in FTE and contracted resources for programming and implementation.⁶

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The bill does not address the removal of EFI responsibilities related to sports development in sections 288.92 and 288.11621, F.S.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.60, and 320.08058.

This bill revives, readopts, and amends section 288.1229 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 Commerce and Tourism April 17, 2017:

The CS requires the Office of Program Policy and Government Accountability to report on the Microfinance Loan Program and the Microfinance Guarantee Program by January 15, 2018.

⁶ Florida Department of Highway Safety and Motor Vehicles, *2017 Agency Bill Analysis HB 7005*, April 12, 2017, (on file with the Committee on Commerce and Tourism).

B. Amendments:

None.

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



872672

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Montford) recommended the following:

Senate Amendment (with title amendment)

Between lines 221 and 222

insert:

Section 3. Section 288.9937, Florida Statutes, is amended to read:

288.9937 Evaluation of programs.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability shall analyze and, evaluate, ~~and~~ determine the economic benefits, as defined in s. 288.005, of



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11 the first 3 years of the Microfinance Loan Program and the
12 Microfinance Guarantee Program. The analysis by the Office of
13 Economic and Demographic Research must determine the economic
14 benefits, as defined in s. 288.005, and ~~also~~ evaluate the number
15 of jobs created, the increase or decrease in personal income,
16 and the impact on state gross domestic product from the direct,
17 indirect, and induced effects of the state's investment. The
18 analysis by the Office of Program Policy Analysis and Government
19 Accountability must ~~also~~ identify any inefficiencies in the
20 programs and provide recommendations for changes to the
21 programs. Each ~~The~~ office shall submit a report to the President
22 of the Senate and the Speaker of the House of Representatives by
23 January 15 ~~±~~, 2018. This section expires January 31, 2018.

24
25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete lines 2 - 40

28 and insert:

29 An act relating to economic programs; amending s.
30 20.60, F.S.; requiring the Department of Economic
31 Opportunity to contract with a direct-support
32 organization to promote the sports industry and the
33 participation of residents in certain athletic
34 competitions in this state and to promote the state as
35 a host for certain athletic competitions; reviving,
36 reenacting, and amending s. 288.1229, F.S., relating
37 to the promotion and development of sports-related
38 industries and amateur athletics; requiring the
39 department to establish a direct-support organization



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40 known as the "Florida Sport Foundation," rather than
41 authorizing the Office of Tourism, Trade, and Economic
42 Development to authorize a direct-support
43 organization, to assist the department in certain
44 promotion and development activities; specifying the
45 purpose of the foundation; specifying requirements for
46 the foundation, including appointment of its board of
47 directors; deleting a provision prohibiting board
48 members from serving more than two consecutive terms;
49 requiring that the foundation operate under written
50 contract with the department; specifying provisions
51 that must be included in the contract; authorizing the
52 department to allow the foundation to use certain
53 facilities, personnel, and services if it complies
54 with certain provisions; requiring an annual financial
55 audit of the foundation; providing that the foundation
56 is not granted any taxing power; deleting certain
57 provisions related to the Office of Tourism, Trade,
58 and Economic Development and a specified direct-
59 support organization; specifying the duties of the
60 foundation; deleting residency requirements for
61 participants of the Sunshine State Games; deleting
62 certain competition requirements; authorizing the
63 department, rather than the Executive Office of the
64 Governor, to allow the use of certain property,
65 facilities, and personal services under certain
66 circumstances; conforming provisions to changes made
67 by the act; amending s. 288.9937, F.S.; requiring the
68 Office of Program Policy Analysis and Government



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69 Accountability to analyze and evaluate the first 3
70 years of certain programs; requiring the Office of
71 Program Policy Analysis and Government Accountability,
72 rather than the Office of Economic and Demographic
73 Research, to identify inefficiencies in certain
74 programs and to recommend changes to such programs;
75 revising the date by which the Office of Economic and
76 Demographic Research must submit a report to the
77 Legislature; requiring the Office of Program Policy
78 Analysis and Government Accountability to submit a
79 report to the Legislature by a specified date;
80 amending s. 320.08058, F.S.; conforming

By Senator Montford

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1 A bill to be entitled
 2 An act relating to the Florida Sports Foundation;
 3 amending s. 20.60, F.S.; requiring the Department of
 4 Economic Opportunity to contract with a direct-support
 5 organization to promote the sports industry and the
 6 participation of residents in certain athletic
 7 competitions in this state and to promote the state as
 8 a host for certain athletic competitions; reviving,
 9 reenacting, and amending s. 288.1229, F.S., relating
 10 to the promotion and development of sports-related
 11 industries and amateur athletics; requiring the
 12 department to establish a direct-support organization
 13 known as the "Florida Sport Foundation," rather than
 14 authorizing the Office of Tourism, Trade, and Economic
 15 Development to authorize a direct-support
 16 organization, to assist the department in certain
 17 promotion and development activities; specifying the
 18 purpose of the foundation; specifying requirements for
 19 the foundation, including appointment of its board of
 20 directors; deleting a provision prohibiting board
 21 members from serving more than two consecutive terms;
 22 requiring that the foundation operate under written
 23 contract with the department; specifying provisions
 24 that must be included in the contract; authorizing the
 25 department to allow the foundation to use certain
 26 facilities, personnel, and services if it complies
 27 with certain provisions; requiring an annual financial
 28 audit of the foundation; providing that the foundation
 29 is not granted any taxing power; deleting certain

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30 provisions related to the Office of Tourism, Trade,
 31 and Economic Development and a specified direct-
 32 support organization; specifying the duties of the
 33 foundation; deleting residency requirements for
 34 participants of the Sunshine State Games; deleting
 35 certain competition requirements; authorizing the
 36 department, rather than the Executive Office of the
 37 Governor, to allow the use of certain property,
 38 facilities, and personal services under certain
 39 circumstances; conforming provisions to changes made
 40 by the act; amending s. 320.08058, F.S.; conforming
 41 provisions to changes made by the act; amending uses
 42 of the proceeds of certain license plates; providing
 43 an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Paragraph (g) is added to subsection (4) of
 48 section 20.60, Florida Statutes, to read:

49 20.60 Department of Economic Opportunity; creation; powers
 50 and duties.—

51 (4) The purpose of the department is to assist the Governor
 52 in working with the Legislature, state agencies, business
 53 leaders, and economic development professionals to formulate and
 54 implement coherent and consistent policies and strategies
 55 designed to promote economic opportunities for all Floridians.

56 To accomplish such purposes, the department shall:

57 (g) Notwithstanding part I of chapter 287, contract with
 58 the direct-support organization established under s. 288.1229 to

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 59 guide, stimulate, and promote the sports industry in this state;
 60 to promote the participation of residents of this state in
 61 amateur athletic competitions; and to promote this state as a
 62 host for national and international amateur athletic
 63 competitions.

64 Section 2. Notwithstanding the repeal of section 288.1229,
 65 Florida Statutes, in section 485 of chapter 2011-142, Laws of
 66 Florida, section 288.1229, Florida Statutes, is revived,
 67 readopted, and amended to read:

68 288.1229 Promotion and development of sports-related
 69 industries and amateur athletics; direct-support organization
 70 established; powers and duties.—

71 (1) The Department of Economic Opportunity shall establish
 72 a direct-support organization known as the "Florida Sports
 73 Foundation." The foundation shall ~~The Office of Tourism, Trade,~~
 74 ~~and Economic Development may authorize a direct-support~~
 75 ~~organization to assist the department office in:~~

76 (a) The promotion and development of the sports industry
 77 and related industries for the purpose of improving the economic
 78 presence of these industries in Florida.

79 (b) The promotion of amateur athletic participation for the
 80 citizens of Florida and the promotion of Florida as a host for
 81 national and international amateur athletic competitions for the
 82 purpose of encouraging and increasing the direct and ancillary
 83 economic benefits of amateur athletic events and competitions.

84 (c) The retention of professional sports franchises,
 85 including the spring training operations of Major League
 86 Baseball.

87 (2) The Florida Sports Foundation ~~To be authorized as a~~

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 88 ~~direct-support organization, an organization must:~~
 89 (a) Be incorporated as a corporation not for profit
 90 pursuant to chapter 617.
 91 (b) 1. Be governed by a board of directors, which must
 92 consist of 20 up to 15 members appointed by the Governor as
 93 follows:
 94 a. Ten members representing Florida professional sports
 95 franchises of Major League Baseball, the National Basketball
 96 Association, the National Football League, the Arena Football
 97 League, the National Hockey League, and the Major League Soccer
 98 teams domiciled in this state.
 99 b. Two member representing Florida sports commissions.
 100 c. One member representing the boating and fishing
 101 industries in Florida.
 102 d. One member representing the golf industry in Florida.
 103 e. One member representing Major League Baseball spring
 104 training.
 105 f. One member representing the automobile racing industry
 106 in Florida.
 107 g. Four members-at-large and up to 15 members appointed by
 108 ~~the existing board of directors.~~ In making at-large
 109 appointments, the Governor ~~board~~ must consider a potential
 110 member's background in community service and sports activism in,
 111 and financial support of, the sports industry, professional
 112 sports, or organized amateur athletics. Members must be
 113 residents of the state and highly knowledgeable about or active
 114 in professional or organized amateur sports. ~~The board must~~
 115 2. In the membership of its board of directors, contain
 116 representatives of all geographical regions of the state and

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117 ~~must~~ represent ethnic and gender diversity. The terms of office
118 of the members shall be 4 years. ~~No member may serve more than~~
119 ~~two consecutive terms.~~ The Governor may remove any member for
120 cause and shall fill all vacancies that occur.

121 (c) Have as its purpose, as stated in its articles of
122 incorporation, to receive, hold, invest, and administer
123 property; to raise funds and receive gifts; and to promote and
124 develop the sports industry and related industries for the
125 purpose of increasing the economic presence of these industries
126 in Florida.

127 (d) Have a prior determination by the department Office of
128 ~~Tourism, Trade, and Economic Development~~ that the organization
129 will benefit the department office and act in the best interests
130 of the state as a direct-support organization to the department
131 office.

132 (3) The Florida Sports Foundation shall operate under
133 written contract with the department. The department shall enter
134 into a contract with the foundation by July 1, 2017. The
135 contract must provide Office of Tourism, Trade, and Economic
136 Development shall contract with the organization and shall
137 include in the contract that:

138 (a) The department office may review the foundation's
139 organization's articles of incorporation.

140 (b) The foundation organization shall submit an annual
141 budget proposal to the department office, on a form provided by
142 the department office, in accordance with department office
143 procedures for filing budget proposals based upon the
144 recommendation of the department office.

145 (c) Any funds that the foundation organization holds in

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146 trust will revert to the state upon the expiration or
147 cancellation of the contract.

148 (d) The foundation organization is subject to an annual
149 financial and performance review by the department office to
150 determine whether the foundation organization is complying with
151 the terms of the contract and whether it is acting in a manner
152 consistent with the goals of the department office and in the
153 best interests of the state.

154 (e) The fiscal year of the foundation begins organization
155 will begin July 1 of each year and ends end June 30 of the next
156 ensuing year.

157 (4) The department Office of Tourism, Trade, and Economic
158 Development may allow the foundation organization to use the
159 property, facilities, personnel, and services of the department
160 office if the foundation organization provides equal employment
161 opportunities to all persons regardless of race, color,
162 religion, sex, age, or national origin, subject to the approval
163 of the executive director of the department office.

164 (5) The foundation organization shall provide for an annual
165 financial audit in accordance with s. 215.981.

166 (6) The foundation organization is not granted any taxing
167 power.

168 ~~(7) In exercising the power provided in this section, the~~
169 ~~Office of Tourism, Trade, and Economic Development may authorize~~
170 ~~and contract with the direct-support organization existing on~~
171 ~~June 30, 1996, and authorized by the former Florida Department~~
172 ~~of Commerce to promote sports-related industries. An appointed~~
173 ~~member of the board of directors of such direct-support~~
174 ~~organization as of June 30, 1996, may serve the remainder of his~~

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175 ~~or her unexpired term.~~

176 ~~(7)(8)~~ To promote amateur sports and physical fitness, the
177 ~~foundation direct support organization~~ shall:

178 (a) Develop, foster, and coordinate services and programs
179 for amateur sports for the people of Florida.

180 (b) Sponsor amateur sports workshops, clinics, conferences,
181 and other similar activities.

182 (c) Give recognition to outstanding developments and
183 achievements in, and contributions to, amateur sports.

184 (d) Encourage, support, and assist local governments and
185 communities in the development of or hosting of local amateur
186 athletic events and competitions.

187 (e) Promote Florida as a host for national and
188 international amateur athletic competitions.

189 (f) Develop a statewide programs program of amateur
190 athletic competition to be known as the "Florida Senior Games"
191 and the "Sunshine State Games."

192 (g) Continue the successful amateur sports programs
193 previously conducted by the Florida Governor's Council on
194 Physical Fitness and Amateur Sports created under former s.
195 14.22.

196 (h) Encourage and continue the use of volunteers in its
197 amateur sports programs to the maximum extent possible.

198 (i) Develop, foster, and coordinate services and programs
199 designed to encourage the participation of Florida's youth in
200 Olympic sports activities and competitions.

201 (j) Foster and coordinate services and programs designed to
202 contribute to the physical fitness of the citizens of Florida.

203 ~~(8)(9)~~(a) The Florida Senior Games and the Sunshine State

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204 Games shall both be patterned after the Summer Olympics with
205 variations as necessitated by availability of facilities,
206 equipment, and expertise. The games shall be designed to
207 encourage the participation of athletes representing a broad
208 range of age groups, skill levels, and Florida communities.
209 ~~Participants shall be residents of this state. Regional~~
210 ~~competitions shall be held throughout the state, and the top~~
211 ~~qualifiers in each sport shall proceed to the final competitions~~
212 ~~to be held at a site in the state with the necessary facilities~~
213 ~~and equipment for conducting the competitions.~~

214 (b) The department may authorize Executive Office of the
215 ~~Governor is authorized to permit~~ the use of property,
216 facilities, and personal services of or at any State University
217 System facility or institution by the direct-support
218 organization operating the Florida Senior Games and the Sunshine
219 State Games. For the purposes of this paragraph, personal
220 services includes full-time or part-time personnel as well as
221 payroll processing.

222 Section 3. Paragraph (a) of subsection (6), paragraph (b)
223 of subsection (9), paragraph (a) of subsection (35), subsection
224 (60), and paragraph (b) of subsection (64) of section 320.08058,
225 Florida Statutes, are amended to read:

226 320.08058 Specialty license plates.—

227 (6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE
228 PLATES.—

229 (a) Because the United States Olympic Committee has
230 selected this state to participate in a combined fundraising
231 program that provides for one-half of all money raised through
232 volunteer giving to stay in this state and be administered by

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233 ~~the Florida Sports Foundation Enterprise Florida, Inc.,~~ to
 234 support amateur sports, ~~and~~ because the United States Olympic
 235 Committee and ~~the Florida Sports Foundation Enterprise Florida,~~
 236 ~~Inc.,~~ are nonprofit organizations dedicated to providing
 237 athletes with support and training and preparing athletes of all
 238 ages and skill levels for sports competition, ~~and~~ because the
 239 Florida Sports Foundation Enterprise Florida, Inc., assists in
 240 the bidding for sports competitions that provide significant
 241 impact to the economy of this state, and because the Legislature
 242 supports the efforts of the United States Olympic Committee and
 243 the Florida Sports Foundation Enterprise Florida, Inc., the
 244 Legislature establishes a Florida United States Olympic
 245 Committee license plate for the purpose of providing a
 246 continuous funding source to support this worthwhile effort.
 247 Florida United States Olympic Committee license plates must
 248 contain the official United States Olympic Committee logo and
 249 must bear a design and colors that are approved by the
 250 department. The word "Florida" must be centered at the top of
 251 the plate.

252 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

253 (b) The license plate annual use fees are to be annually
 254 distributed as follows:

255 1. Fifty-five percent of the proceeds from the Florida
 256 Professional Sports Team plate must be deposited into the
 257 Professional Sports Development Trust Fund within the Department
 258 of Economic Opportunity. These funds must be used solely to
 259 attract and support major sports events in this state. As used
 260 in this subparagraph, the term "major sports events" means, but
 261 is not limited to, championship or all-star contests of Major

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262 League Baseball, the National Basketball Association, the
 263 National Football League, the National Hockey League, Major
 264 League Soccer, the men's and women's National Collegiate
 265 Athletic Association championships ~~Final Four basketball~~
 266 ~~championship,~~ or a horseracing or dogracing Breeders' Cup. All
 267 funds must be used to support and promote major sporting events,
 268 and the uses must be approved by the Department of Economic
 269 Opportunity.

270 2. The remaining proceeds of the Florida Professional
 271 Sports Team license plate must be allocated to the Florida
 272 Sports Foundation Enterprise Florida, Inc. These funds must be
 273 deposited into the Professional Sports Development Trust Fund
 274 within the Department of Economic Opportunity. These funds must
 275 be used by the Florida Sports Foundation Enterprise Florida,
 276 ~~Inc.,~~ to promote the economic development of the sports
 277 industry; to distribute licensing and royalty fees to
 278 participating professional sports teams; ~~to promote education~~
 279 ~~programs in Florida schools that provide an awareness of the~~
 280 ~~benefits of physical activity and nutrition standards; to~~
 281 ~~partner with the Department of Education and the Department of~~
 282 ~~Health to develop a program that recognizes schools whose~~
 283 ~~students demonstrate excellent physical fitness or fitness~~
 284 ~~improvement;~~ to institute a grant program for communities
 285 bidding on minor sporting events that create an economic impact
 286 for the state; to distribute funds to Florida-based charities
 287 designated by the Florida Sports Foundation Enterprise Florida,
 288 ~~Inc.,~~ and the participating professional sports teams; and to
 289 fulfill the sports promotion responsibilities of the Department
 290 of Economic Opportunity.

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291 3. The Florida Sports Foundation Enterprise Florida, Inc.,
 292 shall provide an annual financial audit in accordance with s.
 293 215.981 of its financial accounts and records by an independent
 294 certified public accountant pursuant to the contract established
 295 by the Department of Economic Opportunity as provided in s.
 296 288.1229(5). The auditor shall submit the audit report to the
 297 Department of Economic Opportunity for review and approval. If
 298 the audit report is approved, the Department of Economic
 299 Opportunity shall certify the audit report to the Auditor
 300 General for review.

301 4. Notwithstanding the provisions of subparagraphs 1. and
 302 2., proceeds from the Professional Sports Development Trust Fund
 303 may also be used for operational expenses of the Florida Sports
 304 Foundation Enterprise Florida, Inc., and financial support of
 305 the Florida Senior Games and the Sunshine State Games.

306 (35) FLORIDA GOLF LICENSE PLATES.—

307 (a) The Department of Highway Safety and Motor Vehicles
 308 shall develop a Florida Golf license plate as provided in this
 309 section. The word "Florida" must appear at the bottom of the
 310 plate. The Dade Amateur Golf Association, following consultation
 311 with the PGA TOUR, the Florida Sports Foundation Enterprise
 312 Florida, Inc., the LPGA, and the PGA of America, may submit a
 313 revised sample plate for consideration by the department.

314 (60) FLORIDA NASCAR LICENSE PLATES.—

315 (a) The department shall develop a Florida NASCAR license
 316 plate as provided in this section. Florida NASCAR license plates
 317 must bear the colors and design approved by the department. The
 318 word "Florida" must appear at the top of the plate, and the term
 319 "NASCAR" must appear at the bottom of the plate. The National

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320 Association for Stock Car Auto Racing, following consultation
 321 with the Florida Sports Foundation Enterprise Florida, Inc., may
 322 submit a sample plate for consideration by the department.

323 (b) The license plate annual use fees shall be distributed
 324 to the Florida Sports Foundation Enterprise Florida, Inc. The
 325 license plate annual use fees shall be annually allocated as
 326 follows:

327 1. Up to 5 percent of the proceeds from the annual use fees
 328 may be used by the Florida Sports Foundation Enterprise Florida,
 329 Inc., for the administration of the NASCAR license plate
 330 program.

331 2. The National Association for Stock Car Auto Racing shall
 332 receive up to \$60,000 in proceeds from the annual use fees to be
 333 used to pay startup costs, including costs incurred in
 334 developing and issuing the plates. Thereafter, 10 percent of the
 335 proceeds from the annual use fees shall be provided to the
 336 association for the royalty rights for the use of its marks.

337 3. The remaining proceeds from the annual use fees shall be
 338 distributed to the Florida Sports Foundation Enterprise Florida,
 339 Inc. The Florida Sports Foundation Enterprise Florida, Inc.,
 340 will retain 15 percent to support its regional grant program,
 341 attracting sporting events to Florida; 20 percent to support the
 342 marketing of motorsports-related tourism in the state; and 50
 343 percent to be paid to the NASCAR Foundation, a s. 501(c) (3)
 344 charitable organization, to support Florida-based charitable
 345 organizations.

346 (c) The Florida Sports Foundation Enterprise Florida, Inc.,
 347 shall provide an annual financial audit in accordance with s.
 348 215.981 of its financial accounts and records by an independent

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349 certified public accountant pursuant to the contract established
350 by the Department of Economic Opportunity as specified in s.
351 288.1229(5). The auditor shall submit the audit report to the
352 Department of Economic Opportunity for review and approval. If
353 the audit report is approved, the Department of Economic
354 Opportunity shall certify the audit report to the Auditor
355 General for review.

356 (64) FLORIDA TENNIS LICENSE PLATES.—

357 (b) The department shall distribute the annual use fees to
358 the Florida Sports Foundation ~~Enterprise Florida, Inc.~~ The
359 license plate annual use fees shall be annually allocated as
360 follows:

361 1. Up to 5 percent of the proceeds from the annual use fees
362 may be used by the Florida Sports Foundation ~~Enterprise Florida,~~
363 ~~Inc.~~, to administer the license plate program.

364 2. The United States Tennis Association Florida Section
365 Foundation shall receive the first \$60,000 in proceeds from the
366 annual use fees to reimburse it for startup costs,
367 administrative costs, and other costs it incurs in the
368 development and approval process.

369 3. Up to 5 percent of the proceeds from the annual use fees
370 may be used for promoting and marketing the license plates. The
371 remaining proceeds shall be available for grants by the United
372 States Tennis Association Florida Section Foundation to
373 nonprofit organizations to operate youth tennis programs and
374 adaptive tennis programs for special populations of all ages,
375 and for building, renovating, and maintaining public tennis
376 courts.

377 Section 4. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17

Meeting Date

SB 1306

Bill Number (if applicable)

Topic FLORIDA SPORTS FOUNDATION

Amendment Barcode (if applicable)

Name JEFF SHARKEY

Job Title CARITOR ALLIANCE GROUP

Address 100 E. 100th Ave

Phone 850 224 1660

Street

City

State

Zip

Email JSHARKEY@SHARKEY.COM

Speaking: For Against Information

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

Representing LEON COUNTY BOARD OF COUNTY COMMISSIONERS

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
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 Commerce and Tourism

BILL: CS/SB 1576

INTRODUCER: Committee on Commerce and Tourism and Senator Gibson

SUBJECT: Florida Film Investment Corporation

DATE: April 17, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	Fav/Cs
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1576 creates the Florida Film Investment Corporation to encourage film and television production in the state by making equity investments in productions. The bill provides for:

- The incorporation, as a non-profit, of the Florida Film Investment Corporation in the state;
- Criteria, bylaws, and rules for the operation of the corporation and its investment activities;
- Objective criteria required for all investments and for determining preference when making equity investments in productions;
- The appointment of a board of directors for the corporation;
- The powers and duties of board members;
- The creation of the Florida Film Investment Account, into which funds for investment and returns on investments are deposited and utilized;
- The appointment of a president by the board of directors; and
- The public notice of investments made by the corporation.

II. Present Situation:

Office of Film and Entertainment

The Office of Film and Entertainment (OFE) within the Department of Economic Opportunity (DEO) develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating

access to filming locations. The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications. The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.

The OFE gathers statistical information related to the state's entertainment industry; provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities; administers field offices outside the state; and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development. The OFE's mission is to build, support, and market the entertainment industry in Florida.

Entertainment Industry Incentive Programs

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program,¹ a 6-year program that began July 1, 2010, and sunset June 30, 2016. The program provided tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits could be applied against the corporate income tax or sales and use taxes. Additionally these tax credits could be transferred or sold one time.²

Over the 6-year period, a total of \$296 million in tax credits were authorized. Annual limitations for tax credits were set at:

- \$53.5 million in Fiscal Year 2010-11;
- \$74.5 million in Fiscal Year 2011-12; and
- \$42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.³

The OFE reports that all of the tax credits authorized for the 6-year period have been certified (*allocated to certified productions*).⁴

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.⁵ Qualified production companies are exempt from paying sales tax for the following:

¹ Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.

² Also, tax credits may be relinquished to the Department of Revenue for 90 percent of the amount of the relinquished tax credit.

³ Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.

⁴ Office of Economic and Demographic Research, The Florida Legislature, *Return on Investment for the Entertainment Industry Incentive Programs* (January, 2015).

⁵ Section 288.1258, F.S. See also Department of Revenue, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited April 13, 2017).

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term “activity or service” includes photography, casting, location scouting, and designing sets).⁶
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.⁷
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.⁸
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*⁹

The OFE reviews and approves applications for the exemptions and the Department of Revenue (DOR) issues certificates of exemption to the production companies.

III. Effect of Proposed Changes:

CS/SB 1576 creates the Florida Film Investment Corporation (FFIC). The bill directs the FFIC to be incorporated as a non-profit under ch. 617, F.S., and organized on a nonstock basis. The purpose of the FFIC is to encourage in-state productions through equity investments in such productions. The bill defines a production as:

- A feature film of at least 70 minutes produced for theatrical, television, or direct-to-video release;
- A television series created to run multiple seasons and having an order for distributions of at least five episodes, or a miniseries; and
- One that does not include a commercial, infomercial, political advertising, reality show, game show, awards show, music video, industrial or educational film, weather program, market program, sporting event, sporting event broadcast, gala, production that solicits funds, home shopping program, political program, documentary, gambling-related production, concert production, news shows, current event show, sports news show, sports recap show, video game, pornographic production, or any production deemed obscene under ch. 847, F.S.

The FFIC is directed to adopt criteria, rules, and policies for making equity investments in productions. The criteria must include that:

- The FFIC make investments in productions estimated to generate the greatest economic impact to the state through high-wage jobs and in-state expenditures;
- The amount of the FFIC investment may not exceed the amount of in-state expenditures made by the production;
- The FFIC investment must share highest priority with other preferred shareholders in the event of liquidation of bankruptcy;
- Investments must be less than one-half of total shares or other ownership interest;
- The amount of any one investment must not exceed 12.5 percent of the program funds, both uncommitted funds and funds currently invested;

⁶ Section 212.031(1)(a)9., F.S.

⁷ Section 212.06(1)(b), F.S., provides a definition of the term “qualified motion picture” for purposes of ch. 212, F.S.

⁸ Section 212.08(5)(f), F.S.

⁹ Section 212.08(12), F.S.

- The FFIC is prohibited from having any voting rights, creative control, or authority over productions that are being invested in;
- The FFIC must limit the return on its investments, establishing variable limits on returns that account for time value and reduce returns in exchange for an early buyout of the investment;
- In cases of early buyout, the FFIC must limit its return on investment to the minimum that is actuarially measurable and ensures preservation of the state appropriations provided for investment; and
- The FFIC must conduct at least two investment cycles each fiscal year that commit no more than 40 percent of its total investments for the fiscal year in any one cycle.

The bill directs the FFIC to adopt preference criteria and required criteria. The required criteria for all productions receiving equity investments includes that:

- The corporation uses a bonded third party collection account management firm to ensure Corporation gets its due;
- Presales or sales estimate of at least 1.5x the corporation's exposure;
- The production must carry insurance package that has general liability, workers' comp, key cast/director insurance, and hurricane insurance in season;
- The production must provide proof of other funding before corporation's money is released;
- The producer/production company must have completed 5 feature films or provide a completion bond;
- The production's budget, script, and schedule must be evaluated by a production expert;
- The production budget must include contingency funds at least equal to 5% of total budget;
- The corporation's money is released 50% on the first day of principal photography, 25% upon principal photography completion, and 25% after final picture lock; and
- The corporation has right to inspect and audit weekly cost reports and general ledger of the production.

The FFIC criteria to determine preference for investments includes that:

- Productions with the greatest economic impact to the state demonstrated by creating high-wage jobs and the amount of in-state expenditures as a percentage of total expenditures;
- Productions that the proposed FFIC investment is lowest as a percentage of the production's total shares or other ownership interest;
- Productions that make in-state expenditures the soonest after the FFIC investment;
- Productions by companies with verifiable history of producing successful productions;
- Productions by companies based in-state or by producers, writers, or directors who are residents of this state;
- Productions estimated to increase in-state tourism by using a screenplay based on a Florida story or including recognizable in-state locations;
- Productions whose development demonstrates the likelihood of success including having a recognized director, actor, or other creative talent involved with the production; and
- Productions that the FFIC investment is matched from local sources.

The FFIC may charge fees, not exceeding a reasonable estimated cost, for applications seeking an equity investment.

The bill directs the FFIC to have a board of directors who are permanent residents of the state. The members must be:

- Two members with experience in investment banking and funds management focused on feature film and television production (initially appointed by the Florida Venture Forum and the Florida Chamber of Commerce);
- Three members with recent experience and are recognized leaders in producing feature films and television in this state, they may include producers, directors, production managers, or supervisors (initially appointed by the Governor, President of the Senate, and Speaker of the House of Representatives);
- One member representing businesses that provide supplies for in-state productions (initially appointed by the Department of Economic Opportunity); and
- One member representing the in-state film and television workforce (initially appointed by the Congress of Motion Picture Association of Florida).

The bill establishes staggered terms for the board of directors with three initial members being appointed 1-year terms, two initial members being appointed 2-year terms, two initial members being appointed 3-year terms. Board members will be appointed to 3-year terms and be eligible for reappointment. The board will fill vacancies within 30 days.

Board members are subject to the code of ethics for public officers and employees in ch. 112, F.S., must comply with disclosure requirements, and abstain from voting if there appears to be a possible conflict. A principal who retains a board member is not prohibited from applying for or receiving an equity investment from the FFIC. Board members may not comment on, or discuss, an application with an applicant or someone retained by an applicant outside a board meeting that is pending before the board, or that is known or reasonably expected to be submitted to the FFIC within 180 days. Board members serve without compensation but may be reimbursed in accordance with s. 112.061, F.S., for necessary expenses in the performance of their duties.

The bill directs the board to adopt bylaws, rules, and policies to carry out FFIC responsibilities before the expenditure of any funds used for investments. The board is to schedule regular meetings, at least once per investment cycle.

The bill directs the board to create the Florida Film Investment Account to receive funding used for investments, and the return from investments of those funds. Appropriations provided for the FFIC investments are to be placed in the account. The board may deposit the funds in the account with state or federally chartered financial institutions and invest the remaining portion in permissible investments.¹⁰ Dividends received from investments made by the FFIC are to be redeposited into the account to be reinvested by the FFIC.

The bill directs the FFIC to maintain minimal operation costs that are funded by appropriations and returns received on investments.

¹⁰ As described in s. 560.210(1), F.S., a list of permissible investments include cash, CDs, bankers' acceptances, investment securities, shares in a money market mutual fund, demand borrowing agreements, receivables due to a license, and any other investments approved by rule. The Department of Revenue establishes the rules for this chapter.

The bill maintains that claims against the account will be paid solely from the account, and that under no circumstances is the credit of the state pledged, other than the funds appropriated to the account. The bill maintains that the state will not be liable or obligated in any way for claims against the account or the FFIC.

The bill directs the board to appoint a president who is knowledgeable about private and public financing of film and television projects. The president serves at the pleasure of the board and receives a salary and benefits to be determined by the board. The president will administer the programs of the FFIC and perform duties delegated by the board. The president is to provide staff, as requested, to the board. The president will submit an annual budget to be approved by the board.

The FFIC will notify the Department of Economic Opportunity on the final execution of each contract in which the FFIC makes an equity investment. The FFIC will publish and maintain a notice on their website while the investment is outstanding. The notice will include information about the production for businesses and workforce that provides supplies to productions.

The bill has an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

It is unclear what, if any, impact this may have on state agencies including the Department of Economic Opportunity and the Office of Film Entertainment.

D. Other Constitutional Issues:

CS/SB 1576 may implicate the prohibitions in Article VII, Section 10 of the Florida Constitution, prohibiting the state from becoming a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership, or person.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not address what, if any, coordination the FFIC must have with the Office of Film and Entertainment. The bill has no appropriation.

The bill contains several areas that lack clarity including that:

- It is unclear how the criteria for determining “greatest economic impact on the state” and “greatest economic impact to the state” are verified;
- The FFIC investments are limited to the amount of a production’s in-state expenditures, it is unclear how the expenditures are verified;
- High-wage jobs is undefined;
- Preference is given to productions that make in-state expenditures soonest after receiving an investment; it is unclear if this is supposed to mean all in-state expenditures or any amount;
- It is unclear how a production company’s track record is to be verified and by what standard of success it is to be measured;
- The bill establishes staggered terms for the board of directors but does not provide which initial members will serve shorter terms; and
- It is unclear if initial board appointments of less than 3-years are eligible for successive 3-year appointments.

VIII. Statutes Affected:

This bill creates section 288.1259 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 Commerce and Tourism on April 17, 2017:

The CS differentiates preference criteria, which was already in the bill, and required criteria, which is added by the CS. The required criteria for all productions receiving equity investments includes that:

- The corporation uses a bonded third party collection account management firm to ensure Corporation gets its due;
- Presales or sales estimate of at least 1.5x the corporation’s exposure;

- The production must carry insurance package that has general liability, workers' comp, key cast/director insurance, and hurricane insurance in season;
- The production must provide proof of other funding before corporation's money is released;
- The producer/production company must have completed 5 feature films or provide a completion bond;
- The production's budget, script, and schedule must be evaluated by a production expert;
- The production budget must include contingency funds at least equal to 5% of total budget;
- The corporation's money is released 50% on the first day of principal photography, 25% upon principal photography completion, and 25% after final picture lock; and
- The corporation has right to inspect and audit weekly cost reports and general ledger of the production.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Gibson) recommended the following:

Senate Amendment

Delete lines 84 - 156
and insert:

(h) "Tier one sales agency" means an agency that has sold at least \$50 million in feature films.

(2) CORPORATION.—The Florida Film Investment Corporation is created as a corporation not for profit, to be incorporated under chapter 617 and approved by the Department of State. The corporation shall be organized on a nonstock basis. The purpose



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11 of the corporation is to encourage this state to be used as a
12 site for scripted productions through equity investment in such
13 productions.

14 (3) POWERS AND LIMITATIONS.-

15 (a) The corporation may make equity investments in scripted
16 productions in this state pursuant to the criteria, bylaws,
17 rules, and policies adopted by the board which must include all
18 of the following:

19 1. The corporation shall make investments in productions
20 that it estimates will generate maximum economic impact to the
21 state by providing high-wage jobs for Florida residents and
22 significant in-state expenditures.

23 2. The amount of the corporation's investment in a
24 production must not exceed the amount of the production's in-
25 state expenditures for that production.

26 3. The corporation's investment in a production must rank
27 and remain equal with the highest class of ownership in the
28 production, such that, in the event of liquidation or
29 bankruptcy, the corporation's investment share retains the
30 highest priority with other preferred shareholders.

31 4. An equity investment made by the corporation under this
32 section must be less than one-half of the production's total
33 shares or other ownership interest.

34 5. The amount of the corporation's investment in any one
35 production must not exceed 12.5 percent of the sum of the
36 remaining amount of uncommitted funds in the account plus the
37 amounts of all outstanding investments in other productions.

38 6. The corporation must not have any voting rights,
39 creative control, or management authority over a production



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40 receiving an equity investment under this section.

41 7. The corporation shall limit the return on its
42 investments, establishing variable limits on returns that
43 account for time value and reduce returns in exchange for a
44 production's early buyout of investment equity. For a production
45 exercising an early buyout, the corporation shall limit its
46 return on investment to the minimum that is actuarially
47 measurable, credible, and sufficiently related to actual and
48 expected losses to ensure the corporation's self-sufficiency and
49 preservation of the state appropriations provided for
50 investment.

51 8. The corporation shall conduct at least two investment
52 cycles per fiscal year, committing no more than 40 percent of
53 its total investment in productions for the fiscal year in any
54 one investment cycle.

55 (b) The board shall adopt objective criteria for making
56 equity investments in scripted productions in this state.

57 1. The criteria must require:

58 a. The production to use a bonded third-party collection
59 account management firm to ensure that the corporation receives
60 all funds due from sales proceeds in accordance with a waterfall
61 agreement included in the corporation's investment terms.

62 b. Presales or sales estimates based on the cast and script
63 of the production from a tier one sales agency which reflect a
64 value of at least 1.5 times the exposure of the corporation.

65 c. The production to carry an insurance package from an
66 insurance company rated "A" or higher by A.M. Best Company which
67 must include general liability insurance, workers' compensation,
68 and key cast and director insurance that covers the costs of



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69 disruption or replacement downtime in the event of illness or
70 other loss of services from such individuals. If at least 75
71 percent of the production's filming schedule occurs after June 1
72 and before November 30, the production's insurance package must
73 include hurricane coverage.

74 d. The production to provide proof of funds for the
75 remaining budget within 60 days after tentative approval and
76 place the remaining budget in escrow before the release of
77 corporation funds.

78 e. That the lead producer or production company has
79 completed, sold, and delivered at least five feature films, or
80 the production must provide a completion bond.

81 f. That the production's budget, script, and filming
82 schedule have been evaluated and approved by a production expert
83 selected by the board.

84 g. The production budget to include contingency funds in an
85 amount equal to at least 5 percent of the total budget. Up to 40
86 percent of the contingency funds may be expended during
87 production without the approval of the board. The remaining
88 contingency funds may only be expended with prior approval of
89 the board.

90 h. The board to release corporation funds to a production
91 in the following manner:

92 (I) Fifty percent of corporation funds shall be released on
93 the first day of principal photography.

94 (II) Twenty-five percent of corporation funds shall be
95 released upon completion of principal photography.

96 (III) Twenty-five percent of corporation funds shall be
97 released after final picture lock, as that term is generally



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98 understood in the production industry.

99 i. The production company to provide the board with the
100 right to inspect and audit the weekly cost reports and general
101 ledger of the production throughout preproduction, production,
102 and postproduction.

103 2. The criteria shall give preference to:

104 a. Productions with the greatest economic impact to the
105 state as demonstrated by the greatest number of high-wage jobs
106 provided for state residents and the greatest amount of in-state
107 expenditures as a percentage of total production expenditures.

108 b. Productions in which the proposed investment by the
109 corporation is lowest as a percentage of the production's total
110 shares or other ownership interests.

111 c. Productions with the quickest deployment, in which the
112 production's in-state expenditures will be made soonest after
113 the corporation's investment.

114 d. Productions by companies with a verifiable track record
115 of producing successful productions.

116 e. Productions by state-based production companies or by
117 producers, writers, or directors who are state residents.

118 f. Productions estimated to significantly increase tourism
119 to the state by using a screenplay or teleplay based on a
120 Florida story or including recognizable state locations.

121 g. Productions whose development demonstrates the
122 likelihood of their success, including, but not limited to,
123 having a recognized director, actor, or other creative talent
124 attached to the production.

125 h. Productions in which the corporation's investment is

By Senator Gibson

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1 A bill to be entitled
 2 An act relating to the Florida Film Investment
 3 Corporation; creating s. 288.1259, F.S.; defining
 4 terms; creating the Florida Film Investment
 5 Corporation and stating its purpose; authorizing the
 6 corporation to make investments in scripted
 7 productions in the state subject to certain
 8 conditions; requiring the board of directors to
 9 establish criteria, bylaws, rules, and policies for
 10 making investments; requiring the board to adopt
 11 criteria that give preference to certain productions;
 12 authorizing the corporation to charge fees subject to
 13 certain limits; providing membership requirements for
 14 the board; specifying term requirements; providing
 15 that board members are subject to the code of ethics
 16 for public officers and employees; providing voting
 17 and compliance requirements; providing applicability;
 18 prohibiting board members from commenting on or
 19 discussing certain applications for a specified
 20 timeframe; providing that the board serves without
 21 compensation; authorizing the board to be reimbursed
 22 for specified expenses; requiring the board to adopt
 23 rules and hold meetings; requiring the board to create
 24 the Florida Film Investment Account for specified
 25 purposes; requiring funds appropriated to the
 26 corporation to be deposited in the account;
 27 authorizing the board to deposit a portion of funds
 28 into a bank and invest the remaining portion in
 29 specified securities; requiring dividends to be

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

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30 deposited in the account; providing for the board's
 31 operating expenses; requiring claims against the
 32 corporation to be paid from the account; requiring the
 33 board to appoint a president; specifying that the
 34 president serves at the pleasure of the board and is
 35 compensated as determined by the board; requiring the
 36 president to perform certain duties of the
 37 corporation; requiring the president to submit an
 38 annual budget to be approved by the board; requiring
 39 the corporation to notify the Department of Economic
 40 Opportunity upon final execution of certain contracts
 41 or agreements; providing notice requirements;
 42 providing an effective date.

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

45
 46 Section 1. Section 288.1259, Florida Statutes, is created
 47 to read:

48 288.1259 Florida Film Investment Corporation.-

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

50 (a) "Account" means the Florida Film Investment Account.

51 (b) "Board" means the corporation's board of directors.

52 (c) "Corporation" means the Florida Film Investment
 53 Corporation.

54 (d) "In-state expenditures" means the costs of tangible
 55 property used in this state, and services performed by residents
 56 of this state, for scripted production, including preproduction
 57 and postproduction, but excluding costs for development,
 58 marketing, and distribution.

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59 (e) "President" means the chief executive officer of the
60 corporation.

61 (f) "Scripted production" or "production" means a feature
62 film of at least 70 minutes in length, whether produced for
63 theatrical, television, or direct-to-video release; a television
64 series created to run multiple seasons and having an order for
65 distribution of at least five episodes, or a miniseries, which
66 is produced predominantly from a written screenplay or teleplay.

67 The term does not include a commercial, infomercial, or
68 political advertising; a reality show; a game show; an awards
69 show; a music video; an industrial or educational film; a
70 weather or market program; a sporting event or sporting event
71 broadcast; a gala; a production that solicits funds; a home
72 shopping program; a political program; a documentary; a
73 gambling-related production; a concert production; a local,
74 regional, or Internet-distributed-only news show or current-
75 events show; a sports news or sports recap show; a video game; a
76 pornographic production; or any production deemed obscene under
77 chapter 847. A production may be produced on or by film, video
78 tape, or otherwise through the use of a motion picture camera,
79 digital camera or device, video tape device, computer, any
80 combination of the foregoing, or by any other means, method, or
81 device.

82 (g) "Television" includes broadcast, cable, and Internet
83 television.

84 (2) CORPORATION.—The Florida Film Investment Corporation is
85 created as a corporation not for profit, to be incorporated
86 under chapter 617 and approved by the Department of State. The
87 corporation shall be organized on a nonstock basis. The purpose

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88 of the corporation is to encourage this state to be used as a
89 site for scripted productions through equity investment in such
90 productions.

91 (3) POWERS AND LIMITATIONS.—

92 (a) The corporation may make equity investments in scripted
93 productions in this state pursuant to the criteria, bylaws,
94 rules, and policies adopted by the board which must include all
95 of the following:

96 1. The corporation shall make investments in productions
97 that it estimates will generate maximum economic impact to the
98 state by providing high-wage jobs for Florida residents and
99 significant in-state expenditures.

100 2. The amount of the corporation's investment in a
101 production must not exceed the amount of the production's in-
102 state expenditures for that production.

103 3. The corporation's investment in a production must rank
104 and remain equal with the highest class of ownership in the
105 production, such that, in the event of liquidation or
106 bankruptcy, the corporation's investment share retains the
107 highest priority with other preferred shareholders.

108 4. An equity investment made by the corporation under this
109 section must be less than one-half of the production's total
110 shares or other ownership interest.

111 5. The amount of the corporation's investment in any one
112 production must not exceed 12.5 percent of the sum of the
113 remaining amount of uncommitted funds in the account plus the
114 amounts of all outstanding investments in other productions.

115 6. The corporation must not have any voting rights,
116 creative control, or management authority over a production

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117 receiving an equity investment under this section.

118 7. The corporation shall limit the return on its
 119 investments, establishing variable limits on returns that
 120 account for time value and reduce returns in exchange for a
 121 production's early buyout of investment equity. For a production
 122 exercising an early buyout, the corporation shall limit its
 123 return on investment to the minimum that is actuarially
 124 measurable, credible, and sufficiently related to actual and
 125 expected losses to ensure the corporation's self-sufficiency and
 126 preservation of the state appropriations provided for
 127 investment.

128 8. The corporation shall conduct at least two investment
 129 cycles per fiscal year, committing no more than 40 percent of
 130 its total investment in productions for the fiscal year in any
 131 one investment cycle.

132 (b) The board shall adopt objective criteria for making
 133 equity investments in scripted productions in this state. The
 134 criteria shall give preference to:

135 1. Productions with the greatest economic impact to the
 136 state as demonstrated by the number of high-wage jobs provided
 137 for Florida residents and the amount of in-state expenditures as
 138 a percentage of total production expenditures.

139 2. Productions in which the proposed investment by the
 140 corporation is lowest as a percentage of the production's total
 141 shares or other ownership interest.

142 3. Productions with the quickest deployment, in which the
 143 production's in-state expenditures will be made soonest after
 144 the corporation's investment.

145 4. Productions by companies with a verifiable track record

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146 of producing successful productions.

147 5. Productions by Florida-based production companies or by
 148 producers, writers, or directors who are Florida residents.

149 6. Productions estimated to significantly increase tourism
 150 to the state by using a screenplay or teleplay based on a
 151 Florida story or including recognizable Florida locations.

152 7. Productions whose development demonstrates the
 153 likelihood of their success, including, but not limited to,
 154 having a recognized director, actor, or other creative talent
 155 attached to the production.

156 8. Productions in which the corporation's investment is
 157 matched from local sources, such as county or municipal
 158 agencies, local film commissions, or other community resources.

159 (c) The corporation may charge fees, such as application
 160 fees, from productions seeking equity investment under this
 161 section, but such fees may not exceed the reasonable estimated
 162 cost of the activity for which the fee is charged, such as the
 163 cost of processing an application.

164 (4) BOARD OF DIRECTORS; POWERS AND DUTIES.-

165 (a)1. The corporation shall have a board of directors
 166 consisting of seven members who are permanent residents of the
 167 state. Minority and gender representation must be considered
 168 when making appointments to the board. The board shall be
 169 composed of the following members:

170 a. Two members with experience in investment banking and
 171 funds management focused on feature film and television
 172 production.

173 b. Three members who have recent experience and are
 174 recognized leaders in the production of feature films or

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175 television in this state. Such board members may include, but
 176 are not limited to, producers, directors, production managers or
 177 supervisors, or similar persons in positions of production
 178 leadership.

179 c. One member representing businesses that provide supplies
 180 for feature film and television production in the state, such as
 181 small businesses through which production companies buy or rent
 182 equipment, house and feed cast and crew, purchase supplies and
 183 raw materials, or build production infrastructure.

184 d. One member representing the state's feature film and
 185 television workforce.

186 2. The initial board of directors shall be appointed as
 187 follows:

188 a. The Florida Venture Forum and the Florida Chamber of
 189 Commerce shall each appoint one member pursuant to sub-
 190 paragraph 1.a.

191 b. The Governor, the President of the Senate, and the
 192 Speaker of the House of Representatives shall each appoint one
 193 member pursuant to sub-subparagraph 1.b.

194 c. The Department of Economic Opportunity shall appoint one
 195 member pursuant to sub-subparagraph 1.c.

196 d. The Congress of Motion Picture Associations of Florida
 197 shall appoint one member pursuant to sub-subparagraph 1.d.

198
 199 To establish staggered terms, three of the initial board members
 200 shall be appointed to 1-year terms, two initial board members
 201 shall be appointed to 2-year terms, and two initial board
 202 members shall be appointed to 3-year terms.

203 3. Board members shall serve for a term of 3 years and be

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204 eligible for reappointment. Vacancies shall be filled by the
 205 board within 30 days after the vacancy occurs.

206 (b) Board members are subject to the code of ethics for
 207 public officers and employees as set forth in part III of
 208 chapter 112. A board member must abstain from voting and must
 209 comply with the disclosure requirements of s. 112.3143 if there
 210 appears to be a possible conflict under s. 112.311, s. 112.313,
 211 or s. 112.3143. This paragraph does not prohibit any principal
 212 by whom a board member is retained, as described in s.
 213 112.3143(1) (a), from applying for or receiving an equity
 214 investment under this section.

215 (c) A board member must, with respect to an application for
 216 an equity investment which is pending before the corporation or
 217 an application the board member knows or reasonably expects will
 218 be submitted to the corporation within 180 days, refrain from
 219 commenting on or discussing the application outside of a board
 220 meeting with the applicant or any person retained by the
 221 applicant.

222 (d) Board members shall serve without compensation but may
 223 be reimbursed in accordance with s. 112.061 for all necessary
 224 expenses in the performance of their duties, including attending
 225 board meetings and conducting board business.

226 (e) The board shall:

227 1. Before the expenditure of funds from the Florida Film
 228 Investment Account, adopt bylaws, rules, and policies necessary
 229 to carry out the corporation's responsibilities under this
 230 section.

231 2. Hold regularly scheduled meetings, at least once per
 232 investment cycle, in order to carry out the objectives and

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233 responsibilities of the board.

234 (5) ACCOUNT.—

235 (a) The board shall create the Florida Film Investment
 236 Account for the purpose of receiving state, federal, county,
 237 municipal, and private financial resources, and the return from
 238 investments of those resources, and for the purposes of this
 239 section. The account shall be under the exclusive control of the
 240 board.

241 (b) Appropriations provided to the corporation for making
 242 equity investments shall be deposited into the account.

243 (c) The board may deposit the funds of the account with
 244 state or federally chartered financial institutions in this
 245 state and may invest the remaining portion in permissible
 246 investments as described in s. 560.210(1).

247 (d) Dividend payments received from the investments made by
 248 the corporation shall be redeposited in the account to be used
 249 to support the purposes of this section.

250 (e) The corporation shall keep its operating expenses to
 251 the minimum amount necessary. Such operating expenses shall be
 252 funded by appropriations provided for that purpose and from net
 253 returns on investments made under this section.

254 (f) Any claims against the account shall be paid solely
 255 from the account. Under no circumstances shall the credit of the
 256 state be pledged, other than funds appropriated by law to the
 257 account, nor shall the state be liable or obligated in any way
 258 for claims on the account or against the corporation.

259 (6) PRESIDENT OF THE CORPORATION.—

260 (a) The board shall appoint a president. The president must
 261 be knowledgeable about private and public financing of feature

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262 film and television projects.

263 (b) The president shall serve at the pleasure of the board
 264 and shall receive a salary and benefits as determined by the
 265 board.

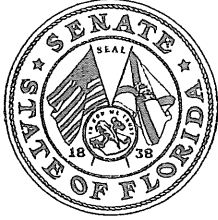
266 (c) The president shall administer the programs of the
 267 corporation and perform such duties as are delegated by the
 268 board.

269 (d) The president shall provide staff to the board as
 270 requested.

271 (e) The president shall submit an annual budget to be
 272 approved by the board.

273 (7) PUBLIC NOTICE OF INVESTMENTS.—The corporation shall
 274 notify the Department of Economic Opportunity upon final
 275 execution of each contract or agreement by which the corporation
 276 makes an equity investment in a production. The corporation
 277 shall also publish and maintain a copy of the notice on the
 278 corporation's website while the investment remains outstanding.
 279 To provide adequate notice to the businesses and workforce that
 280 provide supplies for feature film and television production in
 281 the state, the notice shall include, but need not be limited to,
 282 a brief description of the production, the name of the
 283 production company, and, to the extent available, the names of
 284 the director, cinematographer, production designer, costume
 285 designer, and transportation coordinator.

286 Section 2. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and
Domestic Security, *Chair*
Appropriations
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Commerce and Tourism
Judiciary
Regulated Industries
Joint Legislative Auditing Committee

SENATOR AUDREY GIBSON
6th District

March 16, 2017

Senator Bill Montford, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Chair Montford:

I respectfully request that SB 1576, relating to Florida film investments corporation, be placed on the next committee agenda.

SB 1576, creates the Florida film investment corporation and authorizes the corporation to make investments in scripted productions in the state subject to certain conditions. The bill requires the board to adopt criteria that give preference to certain productions, and requires the creation of the Florida Film Investment Account.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey Gibson" with a stylized flourish at the end.

Audrey Gibson
State Senator
District 6

REPLY TO:

- 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904)359-2553 FAX: (904) 359-2532
- 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/12 Meeting Date

1576 Bill Number (if applicable)

Topic Florida Film Investment Corporation

Amendment Barcode (if applicable)

Name CHRIS RAWOOG

Job Title

Address 403 Shamrock Road Street

Phone 904/806-6369

St. Augustine, Florida 32086 City State Zip

Email chrismawoog@aol.com

Speaking: [X] For [] Against [] Information

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

Representing COMPASS

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

4-17-17
Meeting Date

1576
Bill Number (if applicable)

Topic Florida Film Investments Corp X

Amendment Barcode (if applicable)

Name Natalie King

Job Title VP / COO

Address 235 W Brandon Blvd 402
Street
Brandon FL 33511
City State Zip

Phone 813 924 8218

Email natalie@brandonfilm.com

Speaking: For Against Information

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

Representing Hillsborough Film & Digital Media Commission

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)

1576
Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____

Topic _____

Name Andrew Hosek

Job Title Policy Analyst

Address 200 W College Ave

Street

Tallahassee FL

City

State

Zip

Phone _____

Email ahosek@afphg.org

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)

4/17/17

Meeting Date

1576

Bill Number (if applicable)

Topic Florida Film Investment Corporation

Name Andrea Reilly

Amendment Barcode (if applicable)

Job Title General Counsel

Address 311 East Park Ave.

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-224-5081

Email areilly@smithbryanandmyers.com

Speaking: [X] For [] Against [] Information

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

Representing Clearwater Marine Aquarium

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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 _____

Bill Number (if applicable) _____

Topic SB 1576

Name Saif Hamideh

Job Title Legislative Director of Enverage USA

Address 847 Tanglewood circle

Street

Phone _____

Weston
City

FL
State

33327
Zip

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)

4/17/2017

Meeting Date

1576

Bill Number (if applicable)

Topic Bill No. SB 1576 - FLA. FILM INVESTMENT CORP

860054

Amendment Barcode (if applicable)

Name Elayne Schmidt

Job Title Production Manager

Address 8000 SW 115th Loop

Street

Phone 305-336-6711

City Ocala

FLA

State

34481

Zip

Email Elaneyb@aol.com

Speaking: For Against Information

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

Representing Sweet Tomato Films, Inc.

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)

4.17.17

Meeting Date

1576

Bill Number (if applicable)

860054

Amendment Barcode (if applicable)

Topic FL FILM INVESTMENT CORP

Name DORI A RATH

Job Title PRES / THE BUSINESS GROUP, INC

Address 345 - 60TH AVE W

Phone 941-705-2901

BRADENTON FL 34205

Email DRath@TheBusinessGroupInc.com

Speaking: [X] For [] Against [] Information

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

Representing The BUSINESS GROUP INC

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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.

720

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

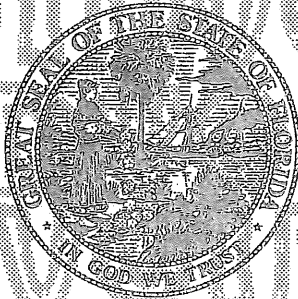
John D. Rood

is duly appointed a member of the

**Board of Directors,
Enterprise Florida,
Inc.**

for a term beginning on the Ninth day of September, A.D., 2016,
until the Thirtieth day of September, A.D., 2019 and is subject to
be confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Third day of October, A.D., 2016.*



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2" x 11" document.



RICK SCOTT
GOVERNOR

RECEIVED
16 SEP 15 AM 9:04
DIVISION OF ELECTIONS
SECRETARY OF STATE

September 9, 2016

Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 288.901, Florida Statutes:

Ambassador John Darrell Rood
3030 Hartley Road
Suite 310
Jacksonville, Florida 32257

as a member of the Board of Directors, Enterprise Florida, Inc., succeeding Hayden Dempsey, subject to confirmation by the Senate. This appointment is effective September 9, 2016, for a term ending September 30, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/aa

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

16 OCT -3 AM 8:59

County of Duval

DIVISION OF ELECTIONS
SECRETARY OF STATE

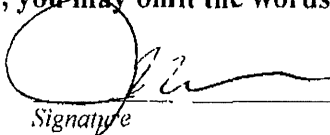
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Directors, Enterprise Florida, Inc.

(Title of Office)

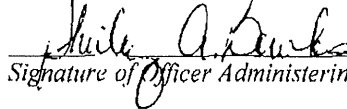
on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

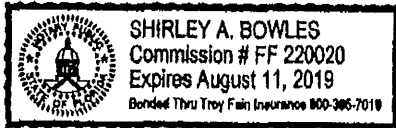


Signature

Sworn to and subscribed before me this 29 day of September, 2016.



Signature of Officer Administering Oath or of Notary Public



Shirley A. Bowles

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

3030 Hartley Road, Suite 310

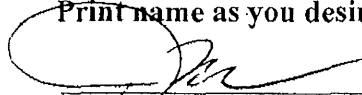
Street or Post Office Box

Jacksonville, FL 32257

City, State, Zip Code

John D. Rood

Print name as you desire commission issued



Signature

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Committee on Commerce and Tourism

Judge:

Started: 4/17/2017 1:31:38 PM

Ends: 4/17/2017 2:30:23 PM

Length: 00:58:46

1:31:41 PM Meeting Called to order
1:31:46 PM Roll Call
1:32:00 PM Quorum Present
1:32:42 PM Tab 3 SB 1032
1:32:48 PM Sen. Montford calls on Sen. Mayfield
1:33:08 PM Sen. Mayfield speaks
1:33:38 PM Sen. Montford asks for questions on amendment
1:34:10 PM Sen. Montford calls on Kyle Ulrich, representing Fl. Association of Insurance Agents
1:34:16 PM FL Association of Insurance Agents Waives in support
1:34:18 PM Calls on Tim Meenan, representing Nationwide
1:34:22 PM Nationwide Waives in support
1:34:26 PM Calls on Robert Reyes, representing Allstate Insurance Company
1:34:29 PM Allstate Waives in Support
1:34:33 PM Sen. Mayfield recognized to close
1:34:45 PM CS SB 1032 roll called
1:34:53 PM 1032 passes
1:35:10 PM Tab 4
1:35:14 PM Sen. Montford calls on Se. Garcia to introduce SB 1298
1:35:30 PM Sen. Garcia introduces the bill
1:36:00 PM Sen. Garcia called on to close
1:36:09 PM Sen. Garcia waives close
1:36:12 PM Roll called on SB 1298
1:36:19 PM Bill passes
1:36:22 PM Tab 5 SB 1678
1:36:29 PM Montford calls on Sen Garcia
1:37:07 PM Sen Garcia introduces the bill
1:37:36 PM Sen. Montford calls for questions
1:37:44 PM Sen. Gainer poses question
1:37:49 PM Sen. Garcia answers
1:38:22 PM Sen. Montford calls on David Ramba, representing FL Automobile Dealers Association
1:38:31 PM Fl Automobile Dealers Association waives in support
1:38:36 PM Sen. Montford calls on Gary Hunter, representing Alliance of Automobile Manufacturers
1:38:54 PM Gary Hunter raises concerns on bill
1:39:39 PM David Leibowitz speaks on behalf of Braman Automotive Group
1:39:48 PM Ron Book speaks on behalf of AutoNation
1:40:13 PM Roll called
1:40:20 PM CS SB 1678 passes
1:40:55 PM Tab 1 SB 236 called
1:41:02 PM Sen. Lee introduces the bill
1:42:41 PM Sen. Montford calls for questions
1:42:47 PM Sen. Hutson recognized
1:42:54 PM Sen. Lee answers
1:43:14 PM Call for debate
1:43:34 PM Andrew Hosek on behalf of Americans for prosperity waives in support
1:43:56 PM Karen Woodall representing Florida Center for Fiscal and Economic Policy called on
1:44:00 PM FL Center for Fiscal and Economic policy waives in support
1:44:10 PM Sen. Lee closes on bill
1:46:17 PM SB 236 fails
1:46:25 PM Motion for reconsideration
1:47:48 PM Motion for reconsideration denied
1:47:59 PM Sen. Hutson called on to introduce SB 822
1:48:09 PM Tab 6

1:48:18 PM Calls for questions
1:48:21 PM Sen. Rodriguez recognized
1:48:29 PM Sen. Hutson answers
1:48:43 PM Sen. Rodriguez poses second question
1:49:07 PM Sen. Hutson answers
1:50:44 PM Sen. Montford calls for debate
1:50:50 PM Sen. Hutson waives close
1:50:55 PM Roll called
1:50:57 PM SB 822 passes
1:51:08 PM Tab 7 SB 1306
1:51:34 PM Sen. Montford introduces bill
1:52:03 PM Amendment introduced
1:52:28 PM Sen. Montford waives close on amendment
1:52:38 PM Amendment passes
1:52:48 PM Sen. Gainer calls for questions
1:52:54 PM Jeff Sharkey representing Leon County Board of County Commissioners waives in support
1:53:23 PM Sen. Montford waives close on the bill
1:53:31 PM Roll called on bill
1:53:35 PM Bill 1306 passes
1:53:58 PM Tab 8 SB 1576
1:54:03 PM Sen. Gibson introduces bill
1:55:54 PM Sen. Montford calls on Sen. Gainer to introduce amendment 865004
1:56:07 PM Sen. Gibson introduces the amendment
1:56:31 PM Calls for questions on amendment
1:56:36 PM Sen. Young recognized
1:56:41 PM Sen. Gibson answers
1:57:03 PM Sen. Young poses second question
1:57:08 PM Sen. Gibson answers
1:57:13 PM Sen. Young questions
1:57:28 PM Sen. Gibson answers
1:57:58 PM Sen. Young questions
1:58:06 PM Sen. Gibson answers
1:58:14 PM Sen. Passidomo recognized
1:58:38 PM Sen. Gibson answers
2:00:28 PM Sen Passidomo questions
2:00:33 PM Sen. Gibson answers
2:00:35 PM Sen. Passidomo questions
2:00:41 PM Sen. Gibson answers
2:00:54 PM Sen. Hutson recognized
2:01:39 PM Sen. Gibson answers
2:01:47 PM Sen. Hutson questions
2:01:54 PM Sen. Gibson answers
2:02:08 PM Sen. Latvala recognized
2:02:22 PM Sen. Hutson recognized
2:03:03 PM Sen. Latvala answers
2:03:11 PM Sen. Rodriguez recognized
2:03:20 PM Sen. Gibson answers
2:03:35 PM Sen. Rodriguez questions
2:04:01 PM Sen. Gibson answers
2:04:27 PM Sen. Young recognized
2:04:59 PM Sen. Gibson answers
2:05:20 PM Sen. Young questions
2:06:01 PM Sen. Gibson answers
2:07:07 PM Sen. Passidomo recognized
2:07:14 PM Sen. Gibson answers
2:07:33 PM Sen. Passidomo questions
2:07:44 PM Sen. Gibson answers
2:08:07 PM Sen. Passidomo questions
2:08:29 PM Sen. Gibson answers
2:09:02 PM Sen. Passidomo questions
2:09:42 PM Sen. Gibson answers
2:10:28 PM Dori A. Rath of The Business Group Inc. called on

2:13:19 PM On behalf of The Business Group Inc. Dori A. Rath speaks
2:14:31 PM Sen. Gainer questions
2:14:38 PM Dori Rath answers
2:15:55 PM Sen. Gainer poses second question
2:16:04 PM Dori Rath answers
2:16:56 PM Sen. Montford calls on Elayne Schmidt
2:17:03 PM Elayne Schmidt waives in support on behalf of Sweet Tomato Films, Inc.
2:17:35 PM No debate on amendment
2:17:40 PM Amendment 860054 passes
2:17:55 PM Saif Hamideh called on to speak
2:18:22 PM Saif Hamideh speaks in support of bill "as a patron"
2:19:04 PM Andrea Reilly called on
2:19:27 PM Andrea Reilly waives in support on behalf of Clearwater Marine aquarium
2:19:38 PM Andrew Hosek waives in opposition on behalf of Americans for Prosperity
2:19:42 PM Natalie King waives in support on behalf of Hillsborough Film and Digital Media Commission
2:19:53 PM Chris Ranong waives in support on behalf of Compass
2:20:09 PM Sen. Passidomo called on
2:22:37 PM Sen. Rodriguez recognized
2:22:43 PM Sen. Young recognized
2:22:48 PM Call for debate
2:23:43 PM none
2:23:45 PM Gibson waives close
2:23:50 PM Roll called
2:23:53 PM SB 1576 reported favorably
2:24:20 PM Tab 2 CS/SB 570
2:24:29 PM Sen. Rouson introduces bill 570
2:25:23 PM Sen. Montford calls on Sen. Rouson to introduce amendment 941666
2:26:05 PM Sen. Montford calls for questions
2:26:12 PM Sen. Rouson waives close
2:26:23 PM Sen. Montford calls for questions on the bill as amendmended
2:26:35 PM Karen Woodall called on to represent Florida Center for Fiscal and Economic Policy
2:26:40 PM Waives in support
2:26:44 PM Arthur Rosenberg waives in support on behalf of Florida Legal Services
2:26:53 PM Sen. Gibson recognized
2:27:06 PM Sen. Rouson waives close
2:27:27 PM roll called
2:27:30 PM CS/SB 570 is recognized favorably
2:27:58 PM TAB 9
2:28:27 PM John Rood's exeuctive appointment as an EFI board member
2:28:51 PM Roll called
2:29:09 PM Confirmation is recommended favorably
2:29:16 PM Sen. Gibson recognized
2:29:22 PM Meeting adjourned