

SB 616 by **Perry (CO-INTRODUCERS) Hutson;** (Identical to H 00827) Engineering

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SB 902 by **Perry (CO-INTRODUCERS) Hutson, Bracy;** Open and Expired Building Permits

SB 7064 by **AG;** (Compare to H 00239) Oil Drilling

SB 824 by **Diaz;** (Similar to CS/H 00987) Private Property Rights of Homeowners

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SB 1128 by **Diaz;** (Identical to H 00721) Emotional Support Animals

SB 1118 by **Hutson;** (Identical to H 00775) Construction Industry Workforce

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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

INNOVATION, INDUSTRY AND TECHNOLOGY

Senator Simpson, Chair

Senator Benacquisto, Vice Chair

MEETING DATE: Tuesday, March 26, 2019

TIME: 1:30—3:30 p.m.

PLACE: Toni Jennings Committee Room, 110 Senate Building

MEMBERS: Senator Simpson, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Brandes, Braynon, Farmer, Gibson, Hutson, and Passidomo

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Secretary of the Department of the Lottery

1	Poppell, James "Jim" W. (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 10 Nays 0
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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2	SB 616 Perry (Identical H 827)	Engineering; Authorizing the Board of Professional Engineers to establish standards of practice and responsibility rules for the profession of engineering; revising the prerequisites for a person to take an examination that determines whether she or he is qualified to practice in this state as an engineer; requiring that structural inspections on a threshold building be performed during new construction or during certain repair or restoration projects, etc. IT 03/26/2019 Fav/CS CA RC	Fav/CS Yeas 9 Nays 1
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3	SB 902 Perry	Open and Expired Building Permits; Specifying conditions under which a building permit is considered an open permit, expired permit, or closed permit; authorizing an open or expired permit to be closed on by or on behalf of the current property owner if certain requirements are met; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit under certain circumstances, etc. CA 03/12/2019 Favorable IT 03/26/2019 Favorable RC	Favorable Yeas 10 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Innovation, Industry and Technology

Tuesday, March 26, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 7064 Agriculture (Compare H 239, H 7029, S 146, CS/S 314)	Oil Drilling; Defining the term “fracking”; requiring specified amounts for bonds for certain operations in the Everglades Protection Area; prohibiting fracking in this state; requiring an applicant for certain explorations for and extraction of minerals to post a specified surety bond for projects in the Everglades Protection Area; prohibiting the refining of oil within the Everglades Protection Area; prohibiting the use of flowback fluid for crop irrigation in this state, etc. IT 03/26/2019 Favorable EN AP	Favorable Yeas 6 Nays 4
5	SB 824 Diaz (Similar H 987, Compare S 812)	Private Property Rights of Homeowners; Preempting the regulation of vacation rentals to the state; requiring each person applying for a vacation rental license to provide the Division of Hotels and Restaurants of the Department of Business and Professional Regulation with specified information, etc. IT 03/26/2019 Not Considered CA AP	Not Considered
6	SB 1128 Diaz (Identical H 721)	Emotional Support Animals; Providing that an individual with a disability who has an emotional support animal or obtains an emotional support animal is entitled to full and equal access to all housing accommodations; prohibiting a housing accommodation from requiring such individual to pay extra compensation for such animal; specifying that an individual with a disability is liable for certain damage done by her or his emotional support animal, etc. AG 03/11/2019 Favorable IT 03/26/2019 Favorable RC	Favorable Yeas 10 Nays 0
7	SB 1118 Hutson (Identical H 775)	Construction Industry Workforce; Requiring that a specified amount of funds relating to the Building Code Administrators and Inspectors Fund be allocated to the University of Florida M.E. Rinker, Sr. School of Construction Management; authorizing the school to use the funds for specified purposes, etc. IT 03/26/2019 Fav/CS AED AP	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents



RON DeSANTIS
GOVERNOR

RECEIVED

2019 JAN 11 PM 3:32

TALLAHASSEE, FL

January 10, 2019

Secretary Michael Ertel
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250

Dear Secretary Ertel:

Please be advised I have made the following reappointment under the provisions of Section 20.317, Florida Statutes:

Mr. Jim Poppell
3502 Limerick Drive
Tallahassee, FL 32309

as the Secretary of the Florida Department of Lottery, subject to confirmation by the Senate. This appointment is effective January 10, 2019, for a term ending at the pleasure of the Governor.

Sincerely,

Ron DeSantis
Governor

RD/mm

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

HAND DELIVERED

RECEIVED

STATE OF FLORIDA

2019 JAN 23 AM 8:42

County of Leon

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

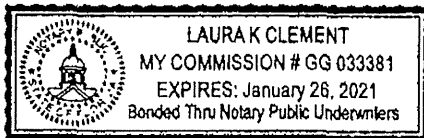
Secretary of the Florida Lottery

(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.]

James W. ("Jim") Poppell
Signature



Sworn to and subscribed before me this 23rd day of January, 2019.
Laura K. Clement
Signature of Officer Administering Oath or of Notary Public

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

250 Marriott Drive

Street or Post Office Box

Tallahassee, FL 32301

City, State, Zip Code

James (Jim) W. Poppell

Print Name

James W. (Jim) Poppell
Signature

1405

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Jennifer Kennedy, Interim Secretary of State,
do hereby certify that

James (Jim) W. Poppell

is duly appointed

**Secretary,
Department of Lottery**

for a term beginning on the Tenth day of January, A.D., 2019, to
serve at the pleasure of the Governor 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 Twenty-Ninth day of January, A.D., 2019.*

Jennifer Kennedy

Interim Secretary of State

HAND DELIVERED

RECEIVED

CERTIFICATION

2019 JAN 28 AM 8:42

STATE OF FLORIDA
COUNTY OF

Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

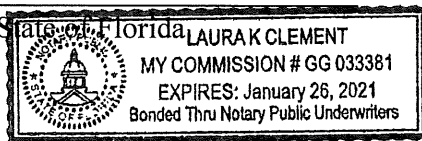
Before me, the undersigned Notary Public of Florida, personally appeared

_____,
who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read
the answers to the foregoing questions; (2) that the information contained in said answers is
complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the
United States and of the State of Florida.

James W. (Jim) Poppe
Signature of Applicant-Affiant

Sworn to and subscribed before me this 23rd day of January, 2019.

Laurak Clement
Signature of Notary Public-



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

James "Jim" W. Poppell

Secretary of the Department of the Lottery

NOTICE OF HEARING

TO: Secretary James "Jim" W. Poppell

YOU ARE HEREBY NOTIFIED that the Committee on Innovation, Industry, and Technology of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, March 26, 2019, in the Toni Jennings Committee Room, 110 Senate Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 19th day of March, 2019

Committee on Innovation, Industry, and
Technology



Senator Wilton Simpson
As Chair and by authority of the committee

cc: Members, Committee on Innovation, Industry, and Technology
Office of the Sergeant at Arms

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

Confirmation
Bill Number (if applicable)

Topic Florida Lottery

Name Jim Poppell

Job Title Secretary

Address 250 Marriott Dr.

Street

Tallahassee

City

State

FL

Zip

32301

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Department of the Lottery

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.

S-001 (10/14/14)

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: James W. "Jim" Poppell

ANSWER: I DO

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Innovation, Industry and Technology

DATE: March 26, 2019

COMMITTEE VOTE RECORD – EXECUTIVE APPOINTMENT

COMMITTEE: Innovation, Industry, and Technology
NAME: Poppell, James "Jim" W.
BOARD: Secretary of the Department of the Lottery
FINAL ACTION: Recommend Confirm
MEETING DATE: Tuesday, March 26, 2019
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: CS/SB 616

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Perry

SUBJECT: Engineering

DATE: March 26, 2019

REVISED: 3/28/19

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer/Oxamendi	Imhof	IT	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 616 authorizes the Florida Board of Professional Engineers (board) to establish minimum standards of practice for the profession of engineering and to establish responsibility rules for the profession of engineering. The bill revises the licensure requirements for professional engineers by permitting a license applicant to complete the required years of work experience after sitting for the license examination. Currently, an applicant must satisfy the experience work requirement before sitting for the examination. The bill increases the required experience for a person who graduated with a four-year degree from an engineering technology program, from four years to six years of work experience.

The bill repeals right of an applicant who does not have the required education, to qualify to sit for the license examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981. The bill also:

- Requires an engineering license applicant to be at least 18 years of age;
- Tolls the 90-day period within which the board must grant or deny an application when an applicant is required to make a personal appearance before the board;
- Specifies the stages of construction during which a special inspector must perform structural inspections on a threshold building, which is a building greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupancy of greater than 500 persons;
- Provides for shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections;

- Provides for shortened time frames for local building officials to issue building permits and notices of plan deficiencies;
- Reduces requirements for experience and length of licensure in other jurisdictions for applicants to qualify for licensure by endorsement without passing license examinations;
- Adds requirements for qualifying agents and engineering firms, when the agent is longer affiliated with the engineering firm, to allow work to continue temporarily;
- Authorizes a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, and delineates the obligations of the successor and original engineer; and
- Eliminates a requirement for engineering firms to obtain and pay for certifications of authorization. The firms are now required to register.

CS/SB 616 is estimated to have a fiscal impact on state revenue. *See* Section V, Fiscal Impact Statement.

The bill provides an effective date of October 1, 2019.

II. Present Situation:

Florida Board of Professional Engineers

The practice of engineering is regulated by the board. Unlike most Department of Business and Professional Regulation (DBPR) professions, administrative, investigative, and prosecutorial services for the board are not provided by DBPR. The DBPR contracts with the Florida Engineers Management Corporation (FEMC), a non-profit corporation, to provide such services.¹ The FEMC is a public-private nonprofit association that has contracted with the DBPR to handle administrative, investigative, and prosecutorial services for the Board of Professional Engineers.²

Section 471.008, F.S., authorizes the board to adopt rules to implement the provisions of ch. 471, F.S., and ch. 455, F.S., which provides the general licensing procedures for professional licensing by the DBPR and its professional licensing boards.

The board has adopted responsibility rules for the profession of engineering.³ The responsibility rules address a variety of issues, including minimum requirements for engineering documents,⁴ and requirements for the retention of engineering documents.⁵

¹ Section 471.038(3), F.S.

² *See* the Annual Report of the FEMC for FY 2017-2018 at <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf> (last visited Mar. 27, 2019) and the contract between DBPR and FEMC for the period between July 1, 2017 and June 30, 2021 at <https://fbpe.org/wp-content/uploads/2018/07/FEMC-DBPR-Contract-2017.pdf> (last visited Mar. 27, 2019).

³ The responsibility rules are contained in Fla. Admin. Code Chs. 61G15-30, 61G15-31, 61G15-32, and 61G15-33 (2019).

⁴ Fla. Admin. Code R. 61G15-30.003 (2019).

⁵ Fla. Admin. Code R. 61G15-30.009 (2019).

There were 64,219 licensed professional engineers in the 2017-2018 fiscal year,⁶ The FEMC processed 310 complaints regarding engineering practice during that period. Only 261 complaints were found to be legally sufficient to proceed, and the FEMC filed 112 administrative complaints in cases where probable cause was found relating to a violation of the practice act.⁷

Professional Engineer License Qualifications

Section 471.013, F.S., provides the license qualifications for a professional engineer. In order to be licensed as a professional engineer, a person must successfully pass two examinations: the fundamentals examination and the principles and practices examination. Prior to being permitted to sit for the fundamentals examination, an applicant must have:

- Graduated from an approved engineering curriculum of four years or more in a board-approved school, college, or university, and
 - Have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering;⁸
- Graduated from an approved engineering technology curriculum of four years or more in an board-approved school, college, or university within the State University System, having been enrolled or graduated before July 1, 1979; and
 - Have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of engineering.⁹

Alternatively, if an applicant does not have the required education, the applicant may qualify for an engineer license with work experience consisting of 10 years or more of active engineering work of a character indicating the applicant is competent to be placed in responsible charge of engineering. To qualify for licensure based solely on satisfying the experience requirement, the applicant must have notified the DBPR before July 1, 1984, that she or he was engaged in such work on July 1, 1981.

Licensing Procedure – Appearing Before the Board

Section 471.015(2), F.S., requires the board to certify for licensure any applicant who satisfies the requirements of s. 471.013, F.S.

⁶ There were 526 inactive professional licenses during that fiscal year. See *Annual Report, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, Fiscal Year 2017-2018*, at p. 19, available at <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf> (last visited Mar. 24, 2019).

⁷ See the Annual Report of the FEMC for FY 2017-2018 at <https://fbpe.org/wp-content/uploads/2018/09/2017-2018-FEMC-Annual-Report.pdf>, at pages 4-5 (last visited Mar. 27, 2019), which indicates the FEMC also filed 30 Final Orders with DBPR; entered 15 Settlement Stipulations; dismissed four cases after re-consideration; issued nine reprimands, five suspensions, five probations, five project reviews, and one license restriction; and imposed \$36,768.50 in administrative costs and \$38,400.00 in fines; The board also issued 30 final orders against licensees. *Id.*

⁸ Section 471.013, F.S.

⁹ Section 471.013, F.S.

The board may require personal appearance by any applicant for licensure. The board must give the applicant adequate notice of the time and place of the appearance and provide the applicant a statement of the purpose of and reasons requiring the appearance.¹⁰

Special Inspectors of Threshold Buildings

Section 471.015(7), F.S., authorizes the board to establish by rule the qualifications for certification of licensees as inspectors of threshold buildings. A “threshold building” is “any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.”¹¹

The board is also authorized to establish minimum qualifications for the qualified representative of the special inspector who is authorized to perform inspections of threshold buildings on behalf of the special inspector. Current law does not authorize the board to establish minimum training or education requirements for maintaining a certification or qualification as a special inspector.

The agency charged with enforcing the building code (enforcing agency)¹² must require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record.¹³

Use of Engineer Seals

Section 471.025(1), F.S., authorizes the board to prescribe, by rule, one or more forms of seal to be used by licensed engineers. Each licensee must obtain at least one seal. All final drawings, specifications, plans, reports, or documents prepared or issued by the licensee and filed for public record and all final documents provided to the owner or the owner’s representative must be signed by the licensee, dated, and sealed with the seal. The signature, date, and seal are evidence of the authenticity of the document to which they are affixed.

A licensee may not affix or permit to be affixed his or her seal, name, or digital signature to any plan, specification, drawing, final bid document, or other document that depicts work which he or she is not licensed to perform or which is beyond his or her profession or specialty.¹⁴

Current law does not authorize a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, or delineate the obligations of the successor or original engineer in regards to prior work and documents assumed by the successor engineer.

¹⁰ Section 471.015(6), F.S.

¹¹ See s. 553.71(12), F.S.

¹² See s. 553.71(5), F.S., defining the term “local enforcement agency.”

¹³ Section 553.79(5)(a), F.S.

¹⁴ Section 471.025(3), F.S.

III. Effect of Proposed Changes:

Reinstatement of Void Licenses

Sections 1 and 7 of the bill amends s. 455.271, F.S., to eliminate a requirement that a delinquent licensee must apply for licensure when a professional or occupational license expires. Current law providing such expired licenses are void, without any further action by the applicable board or the DBPR, is retained. Rulemaking authority is granted to the applicable board or the DBPR to adopt rules for license reinstatement, including continuing education requirements for professional engineers not to exceed the continuing education required to renew a license, as set forth in s. 471.019, F.S.

Certifications of Authorization to Engineering Firms

Sections 2 and 4 of the bill deletes the requirement for engineering firms to obtain a certificate of authorization and pay a fee to the FEMC, as required by ss. 471.005 and 471.011, F.S., in order to practice engineering in Florida.

Rulemaking Authority

Section 3 of the bill amends s. 471.008, F.S., to authorize the board to establish minimum standards of practice for the profession of engineering and to establish responsibility rules for the profession of engineering.

License Qualifications (Age, Examination Eligibility, and Required Experience)

Section 5 of the bill amends s. 471.013(1)(a), F.S., to delete the requirement that an engineering license applicant have four or more years of active engineering experience before the applicant may sit for the fundamentals examination. The educational requirement for taking the fundamentals examination is amended to allow, in addition to a four-year degree in engineering, a four-year engineering technology degree if the approved curriculum at a program has been approved by the board.

The bill repeals the provision in s. 471.013(1)(a)3., F.S., which permits an applicant who does not have the required education, to qualify to sit for the fundamentals examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981, and notified the DBPR before July 1, 1984, that she or he was engaged in such work.

Section 6 of the bill amends s. 471.015(2)(a), F.S., to require license applicants to provide proof to the board that he or she is at least 18 years of age. Current law does not provide a minimum age requirement.

The bill also revises licensure requirements by permitting a license applicant to complete the required experience after sitting for the license examination. Currently, an applicant must satisfy the experience requirement before sitting for the examination. Under the bill, a graduate from an approved four-year engineering curriculum must have a record of four years of active engineering experience of a character indicating competence to be in responsible charge of

engineering before the person may qualify for a license. This is the same experience currently required to sit for the license examination.

However, the bill increases the required experience for a person who graduated with a four-year degree in engineering technology from four years to six years of work experience.

Licensure by Endorsement

Section 6 of the bill further provides the Board must consider an applicant qualified for a license by endorsement, without passing the fundamentals examination, based on a reduced number of years of experience and length of licensure in another state. The required experience and licensure is reduced from:

- 20 years to 15 years, for experience; and
- 15 years to 10 years, for licensure.

Similarly, applicants are qualified for licenses by endorsement without the need to pass the fundamentals examination or the principles and practices examination, based on a reduction in the required years of experience and length of licensure in another state. The required experience and licensure (as to both examinations) is reduced from:

- 30 years to 25 years, for experience; and
- 25 years to 20 years, for licensure.

Licensing Procedure – Appearing Before the Board

Section 6 of the bill also amends s. 471.015(6), F.S., to provide that the period within which an application must be granted or denied is tolled until such time as the applicant appears when required to make a personal appearance before the board. The bill provides the board may deny a license if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings.¹⁵

Temporary Registration of Engineering Firms for Limited Period

Section 8 of the bill amends s. 471.021, F.S., authorizing out-of-state engineers and firms to practice in Florida on one specified project for a period not to exceed one year is revised to require such persons to be issued a temporary registration, rather than a certificate of authorization, by the Florida Engineers Management Corporation (FEMC) Section 471.011(6), F.S., currently provides the fee for temporary registrations may not exceed \$25 for individuals or \$50 for business firms.

The bill also amends s. 471.023(4), F.S., to require, as to engineering services by business organizations and other legal entities which practice, offer to practice, or offer to the public such engineering services, that such entities be registered with FEMC, subject to the requirements of ch. 471, F.S. No authority is provided by the bill to the board to establish fees for such registration, which is distinct from the type of temporary registration authorized by s. 471.021, F.S., discussed above.

¹⁵ Section 120.60(1), F.S.

Requirements for Engineering Firms and Qualifying Agents

Section 9 of the bill amends s. 471.023, F.S., to add requirements for qualifying agents affiliated with qualified engineering firms when the affiliation is termination. A firm is limited to a maximum of 60 days to operate without a qualifying agent after its affiliation with a qualifying agent ends. The bill provides for a temporary appointment for up to 60 days of another employee as the qualifying agent to complete the current workload, if the departing agent is the only person serving as the firm's qualified agent.

Further, a notice to the local building official must be provided by a departing qualifying agent:

- Within 24 hours after termination of employment; and
- Before practicing engineering by affiliating with another business.

Rulemaking authority is granted to the Board to adopt notice procedures.

Use of Engineer Seals

Section 10 of the bill amends s. 471.025(4), F.S., to require a successor engineer seeking to reuse documents previously sealed by another engineer to independently re-create all of the work done previously.

A successor engineer assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents, which must be treated as though they were the successor engineer's original product. The original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer.

Special Inspections of Threshold Buildings

Section 11 of the bill amends s. 553.79, F.S., relating to building construction permits, to provide that the authority of an enforcement agency to require a special inspector to perform structural inspections on the threshold building applies during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified.

Alternative Plans Review and Inspection Notices to Local Building Officials

Section 12 of the bill provides for shortened deadlines for various notices required by ss. 553.791(4) and (5), F.S., to be provided to a local building official when a private provider is retained to perform construction inspection services on a project. Notices that a private provider will perform required inspections must be provided to the local building official either:

- At the time of application; or
- No later than 2 p.m. the business day before the first scheduled inspection (previously no less than seven days before).

Once construction begins, if the local building official is unable to provide inspection services in a timely manner, a notice that the owner has elected to retain a private provider to provide

inspection services must be provided to the local building official no later than 2 p.m. the business day before the next scheduled inspection (previously no less than seven days before).

The bill also amends s. 553.791(9), F.S., to provide that a local building official may not prohibit a private provider from performing inspections outside of normal operating hours, on weekends, or on holidays.

Time Frames for Issuance of Building Permits

Section 11 of the bill also amends s. 553.791(7), F.S., to shorten time frames for local building officials to issue building permits or notices of construction plan deficiencies to 15 days from 30 days.

Other Revisions

The bill includes technical drafting changes, conforming changes, and elimination of obsolete language.

Effective Date

The bill provides an effective date of October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Engineering firms will no longer be required to pay:

- For an initial certificate of authorization, a \$230 fee, representing:
 - An application fee of \$125;
 - An initial fee of \$100, and
 - An Unlicensed Activities fee of \$5.
- For a renewal of a certificate of authorization, a \$98.75 fee (or \$123.75 if delinquent), representing:
 - A renewal fee of \$93.75;
 - An Unlicensed Activities fee of \$5; and
 - A Delinquent Fee of \$25, if the certificate is delinquent.

C. Government Sector Impact:

According to information provided by the FEMC,¹⁶ the elimination of certificates of authorization and the associated fees will have a fiscal impact, resulting in a reduction of initial application fees, renewal fees, and other related fees paid by the private sector in the approximate amount of \$155,000 annually. However, the DBPR estimates even more significant reductions over the next two years (as a result of the biennial renewal period for licenses) in:

- The Professional Regulation Trust Fund, estimated to be reduced by approximately \$816,250, based on the number of certificates of authorization issued as of March 1, 2019;
- Revenue from the General Revenue service charge,¹⁷ estimated to be reduced by approximately \$65,300; and
- Unlicensed Activities Fees associated with licensed professional engineers, estimated to be reduced by approximately \$33,000.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 455.271, 471.005, 471.008, 471.011, 471.013, 471.015, 471.019, 471.021, 471.023, 471.025, 553.79, and 553.791.

¹⁶ See FEMC Report – Cert. of Authorization Fees – Impact on Revenues FY 2016-2018 (on file with Senate Committee on Innovation, Industry, and Technology).

¹⁷ A service charge of eight percent is appropriated from revenue income deposited in specified trust funds, representing the estimated pro rata share of the cost of general government. See s. 215.20(1), F.S., relating to the service charge.

¹⁸ Emails between staff of DBPR and staff of the Senate Appropriations Committee (Mar. 26, 2019) (on file with Senate Committee on Innovation, Industry, and Technology).

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 Innovation, Industry, and Technology on March 26, 2019:

The committee substitute:

- Revises the licensure requirements for professional engineers by permitting a license applicant to complete the required years of work experience after sitting for the license examination;
- Repeals right of an applicant who does not have the required education, to qualify to sit for the license examination if the person was engaged in 10 years or more of active engineering work experience on July 1, 1981;
- Reduces requirements for experience and length of licensure in other jurisdictions for applicants to qualify for licensure by endorsement without passing license examinations;
- Eliminates a requirement for engineering firms to obtain and pay for certifications of authorization;
- Provides for registration of engineering firms;
- Requires an engineering license applicant to be at least 18 years of age;
- Tolls the 90-day period within which the board must grant or deny an application when an applicant is required to make a personal appearance before the board;
- Specifies the stages of construction during which a special inspector must perform structural inspections on a threshold building, which is a building greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupancy of greater than 500 persons;
- Provides for shortened deadlines and time frames for notices to, and actions by, local building officials when a private provider performs plans review and inspections;
- Provides for shortened time frames for local building officials to issue building permits and notices of plan deficiencies;
- Adds requirements for qualifying agents and engineering firms, when the agent is longer affiliated with the engineering firm, to allow work to continue temporarily; and
- Authorizes a successor engineer to independently re-create and seal documents that were previously created and sealed by the original engineer, and delineates the obligations of the successor and original engineer.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2019	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

455.271 Inactive and delinquent status.—

(6) (a) ~~A delinquent status licensee must affirmatively
apply with a complete application, as defined by rule of the
board, or the department if there is no board, for active or~~



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~~inactive status during the licensure cycle in which a licensee becomes delinquent.~~ Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department. The board, or the department if there is no board, shall adopt rules allowing a licensee whose license is void to apply for reinstatement.

This subsection does not apply to individuals subject to regulation under chapter 473.

Section 2. Subsections (13) of section 471.005, Florida Statutes, is redesignated as subsection (3), and present subsection (3) and subsection (8) of that section are amended, to read:

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

~~(3) "Certificate of authorization" means a license to practice engineering issued by the management corporation to a corporation or partnership.~~

(8) "License" means the licensing of engineers ~~or certification of businesses~~ to practice engineering in this state.

Section 3. Section 471.008, Florida Statutes, is amended to read:

471.008 Rulemaking authority.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to:

(1) Implement provisions of this chapter or chapter 455 which confer ~~conferring~~ duties upon it.

(2) Ensure competence in the practice of engineering.

(3) Ensure accuracy, completeness, and quality in the



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engineering products provided.

Section 4. Subsection (4) of section 471.011, Florida Statutes, is amended to read:

471.011 Fees.—

~~(4) The fee for a certificate of authorization shall not exceed \$125.~~

Section 5. Paragraph (a) of subsection (1) of section 471.013, Florida Statutes, is amended to read:

471.013 Examinations; prerequisites.—

(1)(a) A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character and:

1. Is a graduate from an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board ~~and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or~~

2. Is a graduate of an approved engineering technology curriculum of 4 years or more in a school, college, or university which has been approved by the board ~~within the State University System, having been enrolled or having graduated prior to July 1, 1979, and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or~~

~~3. Has, in lieu of such education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering. However, this~~



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~~subparagraph does not apply unless such person notifies the department before July 1, 1984, that she or he was engaged in such work on July 1, 1981.~~

The board shall adopt rules providing for the review and approval of schools or colleges and the courses of study in engineering in such schools and colleges. The rules must ~~shall~~ be based on the educational requirements for engineering as defined in s. 471.005. The board may adopt rules providing for the acceptance of the approval and accreditation of schools and courses of study by a nationally accepted accreditation organization.

Section 6. Subsections (2), (3), (5), and (6) of section 471.015, Florida Statutes, are amended to read:

471.015 Licensure.—

(2) (a) The board shall certify for licensure any applicant who has submitted proof satisfactory to the board that he or she is at least 18 years of age and who:

1. Satisfies the requirements of s. 471.013(1)(a)1. and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or

2. Satisfies the requirements of s. 471.013(1)(a)2. and has a record of 6 years of active engineering experience of a character indicating competence to be in responsible charge of engineering ~~s. 471.013.~~

(b) The board may refuse to certify any applicant who has violated ~~any of the provisions of s. 471.031.~~

(3) The board shall certify as qualified for a license by



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endorsement an applicant who:

(a) Qualifies to take the fundamentals examination and the principles and practice examination as set forth in s. 471.013, has passed a United States national, regional, state, or territorial licensing examination that is substantially equivalent to the fundamentals examination and principles and practice examination required by s. 471.013, and has satisfied the experience requirements set forth in paragraph (2)(a) and s. 471.013; or

(b) Holds a valid license to practice engineering issued by another state or territory of the United States, if the criteria for issuance of the license were substantially the same as the licensure criteria that existed in this state at the time the license was issued.

(5) (a) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination when such applicant has held a valid professional engineer's license in another state for 10 ~~15~~ years and has had 15 ~~20~~ years of continuous professional-level engineering experience.

(b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 20 ~~25~~ years and has had 25 ~~30~~ years of continuous professional-level engineering experience.

(6) The board may require a personal appearance by any applicant for licensure under this chapter. Any applicant of



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whom a personal appearance is required must be given adequate notice of the time and place of the appearance and provided with a statement of the purpose of and reasons requiring the appearance. If an applicant is required to appear, the time period within which a licensure application must be granted or denied is tolled until such time as the applicant appears. However, if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings, the application for licensure may be denied.

Section 7. Section 471.019, Florida Statutes, is amended to read:

471.019 Reactivation.—The board shall prescribe by rule a reinstatement process for void licenses which includes establishing appropriate continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license for a licensed engineer may not exceed the continuing education requirements prescribed pursuant to s. 471.017 ~~12 classroom hours~~ for each year the license was inactive.

Section 8. Section 471.021, Florida Statutes, is amended to read:

471.021 Engineers and firms of other states; temporary registration ~~certificates~~ to practice in Florida.—

(1) Upon approval of the board and payment of the fee set in s. 471.011, the management corporation shall issue a temporary license for work on one specified project in this state for a period not to exceed 1 year to an engineer holding a certificate to practice in another state, provided Florida licensees are similarly permitted to engage in work in such



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state and provided that the engineer be qualified for licensure by endorsement.

(2) Upon approval by the board and payment of the fee set in s. 471.011, the management corporation shall issue a temporary registration ~~certificate of authorization~~ for work on one specified project in this state for a period not to exceed 1 year to an out-of-state corporation, partnership, or firm, provided one of the principal officers of the corporation, one of the partners of the partnership, or one of the principals in the fictitiously named firm has obtained a temporary license in accordance with subsection (1).

(3) The application for a temporary license shall require ~~the constitute~~ appointment of the Department of State as an agent of the applicant for service of process in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to the practice of engineering for which the temporary license was issued.

Section 9. Section 471.023, Florida Statutes, is amended to read:

471.023 Registration ~~Certification~~ of business organizations.—

(1) The practice of, or the offer to practice, engineering by licensees or offering engineering services to the public through a business organization, including a partnership, corporation, business trust, or other legal entity or by a business organization, including a corporation, partnership, business trust, or other legal entity offering such services to the public through licensees under this chapter as agents, employees, officers, or partners is permitted only if the



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business organization is registered with ~~possesses a~~
~~certification issued by~~ the management corporation pursuant to
qualification by the board, subject to the provisions of this
chapter. One or more of the principal officers of the business
organization or one or more partners of the partnership and all
personnel of the business organization who act in its behalf as
engineers in this state shall be licensed as provided by this
chapter. All final drawings, specifications, plans, reports, or
documents involving practices licensed under this chapter which
are prepared or approved for the use of the business
organization or for public record within the state shall be
dated and shall bear the signature and seal of the licensee who
prepared or approved them. Nothing in this section shall be
construed to mean that a license to practice engineering shall
be held by a business organization. Nothing herein prohibits
business organizations from joining together to offer
engineering services to the public, if each business
organization otherwise meets the requirements of this section.
No business organization shall be relieved of responsibility for
the conduct or acts of its agents, employees, or officers by
reason of its compliance with this section, nor shall any
individual practicing engineering be relieved of responsibility
for professional services performed by reason of his or her
employment or relationship with a business organization.

(2) For the purposes of this section, registration with the
management corporation ~~a certificate of authorization~~ shall be
required for any business organization or other person
practicing under a fictitious name, offering engineering
services to the public. However, when an individual is



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practicing engineering in his or her own given name, he or she shall not be required to be registered ~~licensed~~ under this section.

(3) Except as provided in s. 558.0035, the fact that a licensed engineer practices through a business organization does not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her.

Partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the business organization. The personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a shareholder-employee of a corporation incorporated under chapter 607. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

(4) ~~Each certification of authorization shall be renewed every 2 years.~~ Each business organization registered ~~certified~~ under this section must notify the board within 1 month after any change in the information contained in the application upon



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which the registration ~~certification~~ is based.

(a) A qualifying agent who terminates an affiliation with a qualified business organization must notify the board, by a process established by rule, of such termination within 24 hours after the termination. If such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of engineering until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with a qualified business organization and such qualifying agent is the only licensed individual affiliated with the business organization, the board may authorize another licensee employed by the business organization to temporarily serve as its qualifying agent for a period of not more than 60 days to proceed with incomplete contracts. The business organization may not operate beyond such period under this chapter absent replacement of the qualifying agent.

(c) A qualifying agent shall notify the board, by a process established by rule, before engaging in the practice of engineering in affiliation with a different business organization.

(5) Disciplinary action against a business organization shall be administered in the same manner and on the same grounds as disciplinary action against a licensed engineer.

Section 10. Subsection (4) is added to section 471.025, Florida Statutes, to read:



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471.025 Seals.—

(4) A successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer. A successor engineer assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents. Such documents must be treated as though they were the successor engineer's original product, and the original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer. For the purposes of this subsection, the term "successor engineer" means an engineer who is using or relying upon the work, findings, or recommendations of the engineer who previously sealed the pertinent documents.

Section 11. Paragraph (a) of subsection (5) of section 553.79, Florida Statutes, is amended to read:

553.79 Permits; applications; issuance; inspections.—

(5) (a) During new construction or during repair or restoration projects in which the structural system or structural loading of a threshold building is being modified, the enforcing agency shall require a special inspector to perform structural inspections on the ~~a~~ threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before the issuance of a building permit for the construction, repair, or restoration of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately



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inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. 553.71(12), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

Section 12. Subsections (4) and (5), paragraphs (a), (b), and (c) of subsection (7), and subsection (9) of section 553.791, Florida Statutes, are amended to read:

553.791 Alternative plans review and inspection.—

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official at the time of permit application, or no later than 2 p.m. of the business day before ~~less than 7 business days prior to~~ the first scheduled inspection by the local building official or building code enforcement agency for a private provider performing required inspections of construction under this section, on a form to be adopted by the commission. This notice shall include the



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following information:

(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this



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form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. In addition, the fee owner or the fee owner's contractor shall post at the project site, prior to the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and similar information for the primary contact of the private



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provider on the project.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so no later than 2 p.m. of the business day before ~~less than 7 business days prior to~~ the next scheduled inspection using the notice provided for in paragraphs (4) (a)-(c) .

(7) (a) No more than 15 ~~30~~ business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official shall issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 15-day ~~30-day~~ period, the permit application shall be deemed approved as a matter of law, and the permit shall be issued by the local building official on the next business day.

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 15-day ~~30-day~~ period, the 15-day ~~30-day~~ period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit revisions to correct the deficiencies.

(c) If the permit applicant submits revisions, the local



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building official has the remainder of the tolled 15-day ~~30-day~~ period plus 5 business days to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be issued by the local building official on the next business day.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the private provider from performing any inspection outside of the local building official's normal operating hours, including before and after normal business hours, on weekends, or on holidays. The local building official may visit the building site as often as necessary to verify that the private provider is performing all required inspections. A deficiency notice must be posted at the job site by the private provider, the duly authorized representative of the private provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is found. After corrections are made, the item must be reinspected by the private provider or representative before being concealed. Reinspection or reaudit fees shall not be charged by the local jurisdiction as a result of the local jurisdiction's audit



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inspection occurring before the performance of the private provider's inspection or for any other administrative matter not involving the detection of a violation of the building code or a permit requirement.

Section 13. This act shall take effect October 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to engineering; amending s. 455.271, F.S.; deleting a provision requiring a delinquent status licensee to apply for active or inactive status; requiring rulemaking to authorize licensees whose licenses are void to apply for reinstatement; amending s. 471.005, F.S.; revising definitions; amending s. 471.008, F.S.; revising the Board of Professional Engineers' rulemaking authority; amending s. 471.011, F.S.; conforming provisions to changes made by the act; amending s. 471.013, F.S.; revising the prerequisites for a person to take an examination that determines whether she or he is qualified to practice in this state as an engineer; deleting an obsolete provision; amending s. 471.015, F.S.; revising licensure certification requirements to include active engineering experience and a minimum age; revising requirements for licensure by endorsement by the board; providing that the time



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period in which a licensure application must be granted or denied is tolled if an applicant is required to make a personal appearance before the board; authorizing the board to deny a license if such an applicant fails to appear before the board within a specified timeframe; amending s. 471.019, F.S.; requiring the board to adopt rules relating to a reinstatement process for void licenses; revising continuing education requirements for reactivating a license; amending s. 471.021, F.S.; requiring that temporary registrations be issued for certain work rather than certificates of authorization; amending s. 471.023, F.S.; conforming provisions to changes made by the act; providing requirements for qualifying agents who terminate an affiliation with or cease employment with qualified business organizations; amending s. 471.025, F.S.; requiring a successor engineer to be able to independently re-create certain work when seeking to reuse certain documents; specifying that a successor engineer assumes full professional and legal responsibility by signing or affixing his or her seal to assumed documents; releasing the engineer who previously sealed the documents from any professional responsibility or civil liability for her or his work that is assumed by a successor engineer; defining the term "successor engineer"; amending s. 553.79, F.S.; requiring that structural inspections on a threshold building be performed during new construction or during certain



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504 repair or restoration projects; amending s. 553.791,
505 F.S.; revising notice requirements for certain
506 building code inspection services by private
507 providers; decreasing the amount of time a local
508 building official has to take certain actions after
509 receiving a permit application and affidavit from a
510 private provider; prohibiting a local building
511 official from prohibiting a private provider from
512 performing any inspection outside the local building
513 official's normal operating hours; providing an
514 effective date.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: February 18, 2019

I respectfully request that **Senate Bill #616**, relating to Engineering, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a large, stylized "P" at the end.

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

SB 614

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name ZANA RAYBON

Job Title EXEC DIRECTOR

Address 2639 N MONROE #B112

Phone 850 521 0500

Street

TALLAHASSEE FL 32303

City

State

Zip

Email zraybon@fbpe.org

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FL BOARD OF PROFESSIONAL ENGINEERS

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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

616

Bill Number (if applicable)

124074

Amendment Barcode (if applicable)

Topic Engineering

Name Allen Douglas

Job Title Executive Director

Address 125 S. Gadsden St
Street

Phone 850 224 7121

Tallahassee FL 32301
City State Zip

Email allen@fleng.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Engineering Society

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.

S-001 (10/14/14)

Kraemer, Mary

From: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Sent: Tuesday, March 26, 2019 3:50 PM
To: Kraemer, Mary
Subject: RE: follow up : SB 616 amendment barcode 124074
Attachments: Engineers Rev and Exp projections through 6-30-23.xls

Categories: @ !-!-!-

I spoke to Larry. He said elimination of the certificate of authorization fee will also impact GR and Unlicensed activity. There will be a GR surcharge reduction of \$65,300 ($\$816,250 \times .08\%$) and the Engineers unlicensed activity account will be reduced by \$32,650 ($6530 \times \5).

These are biennial reductions.

Let me know if you need anything else.

From: Kraemer, Mary <KRAEMER.MARY@flsenate.gov>
Sent: Tuesday, March 26, 2019 2:23 PM
To: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Cc: Oxamendi, Miguel <OXAMENDI.MIGUEL@flsenate.gov>
Subject: Re: follow up : SB 616 amendment barcode 124074

Thanks I'll include this in my CS analysis. Vote went smoothly with only a question from Sen Passidomo about Sen Hutson discussing an appropriation for these funds to UF with the AP subcommittee chair.

On Mar 26, 2019, at 1:59 PM, Davis, Niki <Niki.Davis@laspbs.state.fl.us> wrote:

Follow-up from DBPR.

From: Datres, Susan <Susan.Datres@myfloridalicense.com>
Sent: Tuesday, March 26, 2019 1:39 PM
To: Davis, Niki <Niki.Davis@LASPBS.STATE.FL.US>
Subject: follow up : SB 616 amendment barcode 124074

Larry spoke to Raleigh Close (in our OPB; he does the numbers for all our analyses) about this amendment and he found that as of March 1, 2019, we had 6,530 professional engineer certificates of authorization. To make sure FEMC didn't have another number, Raleigh confirmed the count with a guy in our Div. of Professions, Rick Morrison, and he had 6,528 as of March 4.

The revenue impact will be a reduction of \$816,250 based on Larry's count ($\$125$ license fee \times 6,530 licenses = \$816,250). This is the total revenue impact. Raleigh thinks these are renewed biennially but he doesn't have the numbers broken down by renewal year so he doesn't know how much it translates to on a per year basis.

From: Datres, Susan
Sent: Tuesday, March 26, 2019 10:01 AM

To: 'Davis, Niki'

Subject: RE: SB 616 amendment barcode 124074

Hi Niki! We don't see a fiscal impact. However, changes to ch. 455, F.S., would have a broader impact on the department, not just engineers.

From: Davis, Niki [<mailto:Niki.Davis@LASPBS.STATE.FL.US>]

Sent: Monday, March 25, 2019 7:38 PM

To: Datres, Susan

Subject: SB 616 amendment barcode 124074

Hi Susan!

I know originally the department was not analyzing SB 616; however there is a strike-all amendment. Could you let me know if the amendment (barcode 124074/Sen Perry) to SB 616 has any fiscal impact on the department? It's up in Innovation, Industry, and Technology on Tuesday 3/26.

Thanks,
Niki

Niki Davis

Legislative Analyst

Appropriations Subcommittee Agriculture, Environment and General Government

(850) 487-5228

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 616
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Tuesday, March 26, 2019
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Innovation, Industry, and Technology; and
Senators Perry and Hutson

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A bill to be entitled

An act relating to engineering; amending s. 455.271, F.S.; deleting a provision requiring a delinquent status licensee to apply for active or inactive status; requiring rulemaking to authorize licensees whose licenses are void to apply for reinstatement; amending s. 471.005, F.S.; revising definitions; amending s. 471.008, F.S.; revising the Board of Professional Engineers' rulemaking authority; amending s. 471.011, F.S.; conforming provisions to changes made by the act; amending s. 471.013, F.S.; revising the prerequisites for a person to take an examination that determines whether she or he is qualified to practice in this state as an engineer; deleting an obsolete provision; amending s. 471.015, F.S.; revising licensure certification requirements to include active engineering experience and a minimum age; revising requirements for licensure by endorsement by the board; providing that the time period in which a licensure application must be granted or denied is tolled if an applicant is required to make a personal appearance before the board; authorizing the board to deny a license if such an applicant fails to appear before the board within a specified timeframe; amending s. 471.019, F.S.; requiring the board to adopt rules relating to a reinstatement process for void licenses; revising continuing education requirements for reactivating a license; amending s. 471.021, F.S.; requiring that

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temporary registrations be issued for certain work rather than certificates of authorization; amending s. 471.023, F.S.; conforming provisions to changes made by the act; providing requirements for qualifying agents who terminate an affiliation with or cease employment with qualified business organizations; amending s. 471.025, F.S.; requiring a successor engineer to be able to independently re-create certain work when seeking to reuse certain documents; specifying that a successor engineer assumes full professional and legal responsibility by signing or affixing his or her seal to assumed documents; releasing the engineer who previously sealed the documents from any professional responsibility or civil liability for her or his work that is assumed by a successor engineer; defining the term "successor engineer"; amending s. 553.79, F.S.; requiring that structural inspections on a threshold building be performed during new construction or during certain repair or restoration projects; amending s. 553.791, F.S.; revising notice requirements for certain building code inspection services by private providers; decreasing the amount of time a local building official has to take certain actions after receiving a permit application and affidavit from a private provider; prohibiting a local building official from prohibiting a private provider from performing any inspection outside the local building official's normal operating hours; providing an

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effective date.

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

Section 1. Paragraph (a) of subsection (6) of section 455.271, Florida Statutes, is amended to read:

455.271 Inactive and delinquent status.—

(6) (a) ~~A delinquent status licensee must affirmatively apply with a complete application, as defined by rule of the board, or the department if there is no board, for active or inactive status during the licensure cycle in which a licensee becomes delinquent.~~ Failure by a delinquent status licensee to become active or inactive before the expiration of the current licensure cycle shall render the license void without any further action by the board or the department. The board, or the department if there is no board, shall adopt rules allowing a licensee whose license is void to apply for reinstatement.

This subsection does not apply to individuals subject to regulation under chapter 473.

Section 2. Subsections (13) of section 471.005, Florida Statutes, is redesignated as subsection (3), and present subsection (3) and subsection (8) of that section are amended, to read:

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

~~(3) "Certificate of authorization" means a license to practice engineering issued by the management corporation to a corporation or partnership.~~

(8) "License" means the licensing of engineers ~~or~~

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~~certification of businesses~~ to practice engineering in this state.

Section 3. Section 471.008, Florida Statutes, is amended to read:

471.008 Rulemaking authority.—The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to:

(1) Implement provisions of this chapter or chapter 455 which confer ~~conferring~~ duties upon it.

(2) Ensure competence in the practice of engineering.

(3) Ensure accuracy, completeness, and quality in the engineering products provided.

Section 4. Subsection (4) of section 471.011, Florida Statutes, is amended to read:

471.011 Fees.—

~~(4) The fee for a certificate of authorization shall not exceed \$125.~~

Section 5. Paragraph (a) of subsection (1) of section 471.013, Florida Statutes, is amended to read:

471.013 Examinations; prerequisites.—

(1)(a) A person shall be entitled to take an examination for the purpose of determining whether she or he is qualified to practice in this state as an engineer if the person is of good moral character and:

1. Is a graduate from an approved engineering curriculum of 4 years or more in a school, college, or university which has been approved by the board ~~and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or~~

2. Is a graduate of an approved engineering technology

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curriculum of 4 years or more in a school, college, or university which has been approved by the board ~~within the State University System, having been enrolled or having graduated prior to July 1, 1979, and has a record of 4 years of active engineering experience of a character indicating competence to be in responsible charge of engineering; or~~

3. ~~Has, in lieu of such education and experience requirements, 10 years or more of active engineering work of a character indicating that the applicant is competent to be placed in responsible charge of engineering. However, this subparagraph does not apply unless such person notifies the department before July 1, 1984, that she or he was engaged in such work on July 1, 1981.~~

The board shall adopt rules providing for the review and approval of schools or colleges and the courses of study in engineering in such schools and colleges. The rules must ~~shall~~ be based on the educational requirements for engineering as defined in s. 471.005. The board may adopt rules providing for the acceptance of the approval and accreditation of schools and courses of study by a nationally accepted accreditation organization.

Section 6. Subsections (2), (3), (5), and (6) of section 471.015, Florida Statutes, are amended to read:

471.015 Licensure.—

(2) (a) The board shall certify for licensure any applicant who has submitted proof satisfactory to the board that he or she is at least 18 years of age and who:

1. Satisfies the requirements of s. 471.013(1)(a)1. and has

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146 a record of 4 years of active engineering experience of a
147 character indicating competence to be in responsible charge of
148 engineering; or

149 2. Satisfies the requirements of s. 471.013(1)(a)2. and has
150 a record of 6 years of active engineering experience of a
151 character indicating competence to be in responsible charge of
152 engineering s. 471.013.

153 (b) The board may refuse to certify any applicant who has
154 violated any of the provisions of s. 471.031.

155 (3) The board shall certify as qualified for a license by
156 endorsement an applicant who:

157 (a) Qualifies to take the fundamentals examination and the
158 principles and practice examination as set forth in s. 471.013,
159 has passed a United States national, regional, state, or
160 territorial licensing examination that is substantially
161 equivalent to the fundamentals examination and principles and
162 practice examination required by s. 471.013, and has satisfied
163 the experience requirements set forth in paragraph (2)(a) and s.
164 471.013; or

165 (b) Holds a valid license to practice engineering issued by
166 another state or territory of the United States, if the criteria
167 for issuance of the license were substantially the same as the
168 licensure criteria that existed in this state at the time the
169 license was issued.

170 (5)(a) The board shall deem that an applicant who seeks
171 licensure by endorsement has passed an examination substantially
172 equivalent to the fundamentals examination when such applicant
173 has held a valid professional engineer's license in another
174 state for 10 ~~15~~ years and has had 15 ~~20~~ years of continuous

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professional-level engineering experience.

(b) The board shall deem that an applicant who seeks licensure by endorsement has passed an examination substantially equivalent to the fundamentals examination and the principles and practices examination when such applicant has held a valid professional engineer's license in another state for 20 ~~25~~ years and has had 25 ~~30~~ years of continuous professional-level engineering experience.

(6) The board may require a personal appearance by any applicant for licensure under this chapter. Any applicant of whom a personal appearance is required must be given adequate notice of the time and place of the appearance and provided with a statement of the purpose of and reasons requiring the appearance. If an applicant is required to appear, the time period within which a licensure application must be granted or denied is tolled until such time as the applicant appears. However, if the applicant fails to appear before the board at either of the next two regularly scheduled board meetings, the application for licensure may be denied.

Section 7. Section 471.019, Florida Statutes, is amended to read:

471.019 Reactivation.—The board shall prescribe by rule a reinstatement process for void licenses which includes establishing appropriate continuing education requirements for reactivating a license. The continuing education requirements for reactivating a license for a licensed engineer may not exceed the continuing education requirements prescribed pursuant to s. 471.017 ~~12 classroom hours~~ for each year the license was inactive.

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204 Section 8. Section 471.021, Florida Statutes, is amended to
205 read:

206 471.021 Engineers and firms of other states; temporary
207 registration ~~certificates~~ to practice in Florida.—

208 (1) Upon approval of the board and payment of the fee set
209 in s. 471.011, the management corporation shall issue a
210 temporary license for work on one specified project in this
211 state for a period not to exceed 1 year to an engineer holding a
212 certificate to practice in another state, provided Florida
213 licensees are similarly permitted to engage in work in such
214 state and provided that the engineer be qualified for licensure
215 by endorsement.

216 (2) Upon approval by the board and payment of the fee set
217 in s. 471.011, the management corporation shall issue a
218 temporary registration ~~certificate of authorization~~ for work on
219 one specified project in this state for a period not to exceed 1
220 year to an out-of-state corporation, partnership, or firm,
221 provided one of the principal officers of the corporation, one
222 of the partners of the partnership, or one of the principals in
223 the fictitiously named firm has obtained a temporary license in
224 accordance with subsection (1).

225 (3) The application for a temporary license shall require
226 the ~~constitute~~ appointment of the Department of State as an
227 agent of the applicant for service of process in any action or
228 proceeding against the applicant arising out of any transaction
229 or operation connected with or incidental to the practice of
230 engineering for which the temporary license was issued.

231 Section 9. Section 471.023, Florida Statutes, is amended to
232 read:

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233 471.023 Registration ~~Certification~~ of business
234 organizations.—

235 (1) The practice of, or the offer to practice, engineering
236 by licensees or offering engineering services to the public
237 through a business organization, including a partnership,
238 corporation, business trust, or other legal entity or by a
239 business organization, including a corporation, partnership,
240 business trust, or other legal entity offering such services to
241 the public through licensees under this chapter as agents,
242 employees, officers, or partners is permitted only if the
243 business organization is registered with ~~possesses a~~
244 ~~certification issued by~~ the management corporation pursuant to
245 qualification by the board, subject to the provisions of this
246 chapter. One or more of the principal officers of the business
247 organization or one or more partners of the partnership and all
248 personnel of the business organization who act in its behalf as
249 engineers in this state shall be licensed as provided by this
250 chapter. All final drawings, specifications, plans, reports, or
251 documents involving practices licensed under this chapter which
252 are prepared or approved for the use of the business
253 organization or for public record within the state shall be
254 dated and shall bear the signature and seal of the licensee who
255 prepared or approved them. Nothing in this section shall be
256 construed to mean that a license to practice engineering shall
257 be held by a business organization. Nothing herein prohibits
258 business organizations from joining together to offer
259 engineering services to the public, if each business
260 organization otherwise meets the requirements of this section.
261 No business organization shall be relieved of responsibility for

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the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing engineering be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a business organization.

(2) For the purposes of this section, registration with the management corporation ~~a certificate of authorization~~ shall be required for any business organization or other person practicing under a fictitious name, offering engineering services to the public. However, when an individual is practicing engineering in his or her own given name, he or she shall not be required to be registered ~~licensed~~ under this section.

(3) Except as provided in s. 558.0035, the fact that a licensed engineer practices through a business organization does not relieve the licensee from personal liability for negligence, misconduct, or wrongful acts committed by him or her. Partnerships and all partners shall be jointly and severally liable for the negligence, misconduct, or wrongful acts committed by their agents, employees, or partners while acting in a professional capacity. Any officer, agent, or employee of a business organization other than a partnership shall be personally liable and accountable only for negligent acts, wrongful acts, or misconduct committed by him or her or committed by any person under his or her direct supervision and control, while rendering professional services on behalf of the business organization. The personal liability of a shareholder or owner of a business organization, in his or her capacity as shareholder or owner, shall be no greater than that of a

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shareholder-employee of a corporation incorporated under chapter 607. The business organization shall be liable up to the full value of its property for any negligent acts, wrongful acts, or misconduct committed by any of its officers, agents, or employees while they are engaged on its behalf in the rendering of professional services.

(4) ~~Each certification of authorization shall be renewed every 2 years.~~ Each business organization registered ~~certified~~ under this section must notify the board within 1 month after any change in the information contained in the application upon which the registration ~~certification~~ is based.

(a) A qualifying agent who terminates an affiliation with a qualified business organization must notify the board, by a process established by rule, of such termination within 24 hours after the termination. If such qualifying agent is the only qualifying agent for that business organization, the business organization must be qualified by another qualifying agent within 60 days after the termination. Except as provided in paragraph (b), the business organization may not engage in the practice of engineering until it is qualified by another qualifying agent.

(b) In the event a qualifying agent ceases employment with a qualified business organization and such qualifying agent is the only licensed individual affiliated with the business organization, the board may authorize another licensee employed by the business organization to temporarily serve as its qualifying agent for a period of not more than 60 days to proceed with incomplete contracts. The business organization may not operate beyond such period under this chapter absent

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320 replacement of the qualifying agent.

321 (c) A qualifying agent shall notify the board, by a process
322 established by rule, before engaging in the practice of
323 engineering in affiliation with a different business
324 organization.

325 (5) Disciplinary action against a business organization
326 shall be administered in the same manner and on the same grounds
327 as disciplinary action against a licensed engineer.

328 Section 10. Subsection (4) is added to section 471.025,
329 Florida Statutes, to read:

330 471.025 Seals.—

331 (4) A successor engineer seeking to reuse documents
332 previously sealed by another engineer must be able to
333 independently re-create all of the work done by the original
334 engineer. A successor engineer assumes full professional and
335 legal responsibility by signing and affixing his or her seal to
336 the assumed documents. Such documents must be treated as though
337 they were the successor engineer's original product, and the
338 original engineer is released from any professional
339 responsibility or civil liability for prior work assumed by the
340 successor engineer. For the purposes of this subsection, the
341 term "successor engineer" means an engineer who is using or
342 relying upon the work, findings, or recommendations of the
343 engineer who previously sealed the pertinent documents.

344 Section 11. Paragraph (a) of subsection (5) of section
345 553.79, Florida Statutes, is amended to read:

346 553.79 Permits; applications; issuance; inspections.—

347 (5) (a) During new construction or during repair or
348 restoration projects in which the structural system or

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349 structural loading of a threshold building is being modified,
350 the enforcing agency shall require a special inspector to
351 perform structural inspections on the ~~a~~ threshold building
352 pursuant to a structural inspection plan prepared by the
353 engineer or architect of record. The structural inspection plan
354 must be submitted to and approved by the enforcing agency before
355 the issuance of a building permit for the construction, repair,
356 or restoration of a threshold building. The purpose of the
357 structural inspection plan is to provide specific inspection
358 procedures and schedules so that the building can be adequately
359 inspected for compliance with the permitted documents. The
360 special inspector may not serve as a surrogate in carrying out
361 the responsibilities of the building official, the architect, or
362 the engineer of record. The contractor's contractual or
363 statutory obligations are not relieved by any action of the
364 special inspector. The special inspector shall determine that a
365 professional engineer who specializes in shoring design has
366 inspected the shoring and reshoring for conformance with the
367 shoring and reshoring plans submitted to the enforcing agency. A
368 fee simple title owner of a building, which does not meet the
369 minimum size, height, occupancy, occupancy classification, or
370 number-of-stories criteria which would result in classification
371 as a threshold building under s. 553.71(12), may designate such
372 building as a threshold building, subject to more than the
373 minimum number of inspections required by the Florida Building
374 Code.

375 Section 12. Subsections (4) and (5), paragraphs (a), (b),
376 and (c) of subsection (7), and subsection (9) of section
377 553.791, Florida Statutes, are amended to read:

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553.791 Alternative plans review and inspection.—

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official at the time of permit application, or no later than 2 p.m. of the business day before ~~less than 7 business days prior to~~ the first scheduled inspection by the local building official or building code enforcement agency for a private provider performing required inspections of construction under this section, on a form to be adopted by the commission. This notice shall include the following information:

(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I

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407 understand that the local building official may not
408 review the plans submitted or perform the required
409 building inspections to determine compliance with the
410 applicable codes, except to the extent specified in
411 said law. Instead, plans review and/or required
412 building inspections will be performed by licensed or
413 certified personnel identified in the application. The
414 law requires minimum insurance requirements for such
415 personnel, but I understand that I may require more
416 insurance to protect my interests. By executing this
417 form, I acknowledge that I have made inquiry regarding
418 the competence of the licensed or certified personnel
419 and the level of their insurance and am satisfied that
420 my interests are adequately protected. I agree to
421 indemnify, defend, and hold harmless the local
422 government, the local building official, and their
423 building code enforcement personnel from any and all
424 claims arising from my use of these licensed or
425 certified personnel to perform building code
426 inspection services with respect to the building or
427 structure that is the subject of the enclosed permit
428 application.

429
430 If the fee owner or the fee owner's contractor makes any changes
431 to the listed private providers or the services to be provided
432 by those private providers, the fee owner or the fee owner's
433 contractor shall, within 1 business day after any change, update
434 the notice to reflect such changes. A change of a duly
435 authorized representative named in the permit application does

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not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. In addition, the fee owner or the fee owner's contractor shall post at the project site, prior to the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and similar information for the primary contact of the private provider on the project.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so no later than 2 p.m. of the business day before ~~less than 7 business days prior to~~ the next scheduled inspection using the notice provided for in paragraphs (4) (a) - (c) .

(7) (a) No more than 15 ~~30~~ business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official shall issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 15-day ~~30-day~~ period, the permit application shall be

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deemed approved as a matter of law, and the permit shall be issued by the local building official on the next business day.

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 15-day ~~30-day~~ period, the 15-day ~~30-day~~ period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit revisions to correct the deficiencies.

(c) If the permit applicant submits revisions, the local building official has the remainder of the tolled 15-day ~~30-day~~ period plus 5 business days to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be issued by the local building official on the next business day.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the private provider from performing any inspection outside of the local building official's normal operating hours, including before and after normal business hours, on weekends, or on holidays. The local building official may visit the building

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494 site as often as necessary to verify that the private provider
495 is performing all required inspections. A deficiency notice must
496 be posted at the job site by the private provider, the duly
497 authorized representative of the private provider, or the
498 building department whenever a noncomplying item related to the
499 building code or the permitted documents is found. After
500 corrections are made, the item must be reinspected by the
501 private provider or representative before being concealed.
502 Reinspection or reaudit fees shall not be charged by the local
503 jurisdiction as a result of the local jurisdiction's audit
504 inspection occurring before the performance of the private
505 provider's inspection or for any other administrative matter not
506 involving the detection of a violation of the building code or a
507 permit requirement.

508 Section 13. This act shall take effect October 1, 2019.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: SB 902

INTRODUCER: Senator Perry

SUBJECT: Open and Expired Building Permits

DATE: March 26, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	Oxamendi	Imhof	IT	Favorable
3.			RC	

I. Summary:

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

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

- Enter into a mutual agreement with the local enforcement agency to close an open or expired permit;
- Retain a licensed contractor to satisfy the conditions of an open or expired permit in order to close or reactivate the permit;
- Hire a licensed engineer or architect to inspect the work, direct any repairs necessary to comply with the permit, and submit an affidavit to the local enforcement agency confirming compliance with the requirements of the open or expired permit; or
- Complete the work as an owner-builder under certain circumstances to resolve an open or expired permit for a substantially completed project.

The bill requires local enforcement agencies to provide property owners, when issuing a permit, a written notice explaining the permit conditions, and requirements for applicable inspections. Additionally, the bill requires government entities to charge a single search fee to identify open or unexpired building permits.

The effective date of the bill is October 1, 2019.

II. Present Situation:

Florida Building Code

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

Enforcement of the Florida Building Code: Permits and Inspections

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

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

Abandoned or Expired Permits

Section 105 of the Florida Building Code provides certain activity-related characterizations of building permits although it does not explicitly define open permits. An application for a building permit is deemed *abandoned* 180 days after the filing of the permit application unless the application has been pursued in good faith or an extension has been granted by the local building department.¹¹ In addition, a permit becomes *invalid* if no work starts within six months

¹ Section 553.72(1), F.S.

² *Id.*

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

⁴ Section 553.72(2), F.S.

⁵ See ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1) F.S.

⁶ Section 553.79(1)(b), F.S. requires a local code enforcement agency to post each type of building permit application on its website. Section 202, 2017 Florida Building Code – Building, Sixth Edition (July 2017) *available at* <https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions> (last visited Mar. 20, 2019).

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

⁸ Section 553.79(1)(b), F.S.

⁹ Section 105.3., 2017 Florida Building Code.

¹⁰ Section 553.79(10), F.S.

¹¹ Section 105.3.2, 2017 Florida Building Code.

after issuance of the permit or if work on the project ceases for a period of six months after work has commenced on the project.¹² A new permit is required if a permit is revoked after work has commenced, becomes *null and void*, or *expires* because of a lack of progress on the project.¹³ If a new permit is not obtained within 180 days from the date the permit becomes null and void, the local enforcement agency may require the removal of all work that has been performed on the project.¹⁴ Work shall be considered to be in *active progress* when the permit has received an approved inspection within 180 days.¹⁵ The fee for renewal, reissuance, and extension of a permit is set forth by the administrative authority.¹⁶

Real Estate Disclosure Agreement Forms

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

Created jointly by the Florida Bar (BAR) and Florida Realtors (FR),¹⁸ the standard contract¹⁹ and the "As Is" residential contracts for sale and purchase²⁰ are accepted forms for transactions of varied configurations and complexities. The forms outline responsibilities and obligations of the parties in a real estate transaction closing, including inspection periods, seller disclosures, and status of building permits. Under paragraph 12 of the standard contract, if the buyer gives notice of permit issues, the seller is obligated to resolve open or expired permits and obtain permits for any unpermitted improvements up to a certain dollar amount. Under paragraph 12 of the "As Is" contract, the seller must assist the buyer with closing permits but is not obligated to spend money for this purpose.

In response to the disclosure requirements pertaining to open or expired permits on the seller's disclosure form and the FR/BAR forms, title companies, closing agents, and real estate attorneys research properties to determine if open or expired permits exist. Without resolution of such permits, closings may be delayed and clarity on buyer, seller, contractor, and enforcement agency understanding and accountability for permit resolution can be compromised.

¹² Section 105.4.1, 2017 Florida Building Code.

¹³ Section 105.4.1.1, 2017 Florida Building Code.

¹⁴ Section 105.4.1.2, 2017 Florida Building Code.

¹⁵ Section 105.4.1.3, 2017 Florida Building Code.

¹⁶ Section 105.4.1.4, 2017 Florida Building Code.

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

¹⁸ Florida Realtors, formerly the Florida Association of Realtors (FAR), is a trade association for the real estate industry, available at: <https://www.floridarealtors.org/AboutFar/AboutUs/index.cfm>; (last visited Mar. 20, 2019).

¹⁹ An example of the FR/BAR Standard Contract is available at: https://www.floridarealtors.org/LegalCenter/HotTopics/upload/FloridaRealtors-FloridaBar-5_032217_Watermarked-3.pdf (last visited Mar. 20, 2019).

²⁰ An example of the FR/BAR 'AS IS' Contract is available at: <https://www.needtosellmyhousefast.com/wp-content/uploads/2014/08/Florida-FAR-BAR-AS-IS-Residential-Contract-For-Sale-and-Purchase.pdf> (last visited Mar. 20, 2019).

Construction Work Performed by Owners of Property

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

III. Effect of Proposed Changes:

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

An *open* permit is defined using a combination of comment notice information, permit issuance dates, and determinations of whether and when permit inspections or final inspections occurred. An open permit that expires without a final inspection is considered an *expired* permit as provided in the Florida Building Code. A permit is deemed *closed* when:

- A final inspection demonstrates that all permit requirements have been satisfied; or
- No work is started under the original contract within six months of permit issuance.

A current property owner and the local enforcement agency may enter into a mutual agreement to engage specified licensed contractors to fulfill closing requirements. Absent a mutual agreement, the permit may be closed by the home owner by:

- Retaining the services of the original, licensed contractor to satisfy the permit requirements, including hiring any additional subcontractors to complete work within the scope of the permit;
- Hiring an active, licensed professional engineer or architect to inspect the construction work and provide local enforcement agency sealed affidavit certifying compliance with all the requirements of the permit; or
- Acting, when selling the home, as an owner-builder to resolve certain open permit issues in single family dwellings and multifamily dwelling up to up to four units in size, and such owner is not required to reside in the home for one year.

Under the bill, a contractor hired to complete the original contractor's work is not liable for any existing defect or existing work that fails to comply with any applicable code, rule, regulation, ordinance, permit requirement, or law other than the work actually performed by the contractor.

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

A local enforcement agency may not deny a building permit, issue a notice of violation, or otherwise penalize or sanction a purchaser of property for an improperly closed permit within five years of a recorded commencement notice or its last amendment. If no commencement notice was issued, the period increases to within seven years after a building permit is issued. A

local government agency's other rights and remedies against the property are not affected by the bill.

Any permit issued by a local enforcement agency, including an individual trade permit, may be closed six years after issuance of the permit if there are no documented code violations or safety hazards.

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

Additionally, the bill:

- Permits a contractor to hold an unlimited number of active permits.
- Requires local enforcement agencies to provide property owners, when issuing a permit, a written notice explaining the permit conditions, and requirements for applicable inspections.
- Limits the government entities to charging a single search fee to identify open or unexpired building permits, and requires the amount of such a fee to be commensurate with research and time costs incurred.

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Business and Professional Regulation (DBPR) states that s. 553.7095(4), F.S.,²¹ which releases substitute contractors from liability for existing work performed by a previous contractor, may relieve the substitute contractor from disciplinary liability. However, this provision requires that the substitute contractor be liable for “work actually performed by the contractor.” Additionally, the DBPR states that it may require additional rulemaking authority.

VIII. Statutes Affected:

This bill creates section 553.7905 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

²¹ Florida Department of Business and Professional Regulation, *Agency Analysis of HB 447* (Feb. 12, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: March 13, 2019

I respectfully request that **Senate Bill #902**, relating to Open and Expired Building Permits, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

Senator Keith Perry
Florida Senate, District 8



ANALYSIS

2019 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	HB 447
BILL TITLE:	<u>Open & Expired Building Permits</u>
BILL SPONSOR:	<u>Rep. Diamond</u>
EFFECTIVE DATE:	<u>10/1/19</u>

COMMITTEES OF REFERENCE

1) Business & Professions Subcommittee
2) Local, Federal, & Veterans Affairs Subcommittee
3) Commerce Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Business & Professions Subcommittee

SIMILAR BILLS

BILL NUMBER:	SB 902
SPONSOR:	Sen. Perry

PREVIOUS LEGISLATION

BILL NUMBER:	HB 1077
SPONSOR:	Rep. Diamond
YEAR:	2018
LAST ACTION:	Died in Careers & Competition Subcommittee, 3/10/18

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 12, 2019
LEAD AGENCY ANALYST:	Thomas Campbell, Executive Director, Florida Building Commission
ADDITIONAL ANALYST(S):	Jeff Kelly, Deputy Director, Division of Professions Thomas Izzo, OGC Rules W. Justin Vogel, Florida Building Commission counsel Tracy Dixon, Service Operations Jerry Wilson, Director, Division of Regulation

	Tom Coker, Technology
LEGAL ANALYST:	Tom Thomas, Deputy General Counsel
FISCAL ANALYST:	Raleigh Close, AFM

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill establishes disclosures, standards, and procedures for local enforcement agencies and property owners to use when closing out open and expired permits. The bill also expands the owner-builder exemption, in ch. 489, F.S., to allow homeowners whose property is for sale to act as an owner-builder in order to resolve issues with an open permit prior to the sale of their property.

2. SUBSTANTIVE BILL ANALYSIS

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

Paragraph 553.73(1)(e), F.S., states that the responsibilities for enforcement, interpretation, and regulation of the Florida Building Code shall be vested in a specified local board or agency (local building department/enforcement agency).

Paragraph 553.79(1)(b), F.S., requires local enforcement agencies to post each type of building permit application on their website.

Subsection 553.79(2), F.S., provides that a building permit may not be issued until a local building code administrator or inspector has reviewed a project's plan and found the plan in compliance with the Florida Building Code. The local enforcement agency is also empowered to deny or revoke a permit if a project's plan or the work performed on a project is not in compliance with the Florida Building Code.

Subsection 553.79(10), F.S., requires all permits to contain a disclosure stating that there may be other permitting requirements from other governmental entities beyond the local building department/enforcement agency.

Florida Building Code, Section 105.3.2, states that an application for a building permit will be deemed abandoned 180 days after the filing of the permit application unless the application has been pursued in good faith or an extension has been granted by the local building department.

Florida Building Code, Section 105.4.1, states that a permit shall become invalid if no work starts within six months after issuance of the permit or if work on the project ceases for a period of six months after work has commenced on the project.

Florida Building Code, Section 105.4.1.1, states that a new permit is required if a permit is revoked after work has commenced, becomes null and void, or expires because of a lack of progress on the project.

Florida Building Code, Section 105.4.1.2, states that if a new permit is not obtained within 180 days from the date the permit becomes null and void the local enforcement agency may require the removal of all work that has been performed on the project.

Florida Building Code, Section 105.4.1.3, states that work shall be considered in active progress if the work has received a passing inspection within the last 180 days.

Florida Building Code, Section 105.4.1.4, states that the fee for renewal, reissuance, and extension of a permit shall be set forth by the administrative authority.

2. EFFECT OF THE BILL:

Section 1

The bill creates s. 553.7905(1), F.S., which defines an open permit as a permit that has been issued for any portion of construction of any commercial, residential, or mixed-use project that has not received final inspection within one of the following time periods:

- One year after the expiration of the notice of commencement or last amendment thereto.
- In the absence of a notice of commencement:

- One year after the last inspection conducted under the permit.
- Two years after the permit was issued if there have been no inspections on the project.

The bill creates s. 553.7905(2), F.S., which states that if an open permit expires without receiving final inspection approval, it shall be considered an expired permit as provided in Section 105.4 of the Florida Building Code.

The bill creates s. 553.7905(3), F.S., which defines a closed permit as a permit that meets any of the following conditions:

- A final inspection approval has been obtained upon satisfaction of permit requirements.
- No work has started within six months of the permit being issued.
- The requirements of subsection (4) are satisfied (closed by or on behalf of the property owner).

The bill creates s. 553.7905(4), F.S., which provides that an open or expired permit may be closed by the current property owner regardless of who originally applied for the permit as long as local requirements for closing permits are met by the owner through a mutual agreement with the local enforcement agency. If no agreement exists, a property owner may do the following to close an open or expired permit:

- Hire the original contractor or another contractor licensed in this state to perform the work necessary to satisfy the conditions of the permit at issue. If another contractor is hired, the property owner and contractor must comply with the local building department's change of contractor process. After the change of contractor process is complete the new contractor is not liable for any existing defect or existing work failing to comply with any applicable code, rule, regulation, ordinance, requirement of the permit at issue, or law other than the work actually performed by the contractor.
- Hire a licensed engineer or architect, who has a current and active license and has experience designing, supervising, and inspecting the type of work covered by the open or expired permit. Additionally, the licensed engineer or architect must have at least three years of experience performing related field inspections in order to inspect the work and direct any work necessary to complete the project. The licensed engineer or architect must submit an affidavit to the local building department attesting that the work is complete and in compliance with the requirements of the permit. If any of the work is outside the scope of the engineer's or architect's area of expertise, they may hire another architect or engineer to perform the proper inspections and direct the necessary work to complete the project.

The local building department must accept the affidavit from the engineer or architect and close the permit unless the local building department performs its own final inspection within seven business days of receiving the affidavit. If code violations are found during the local building department's final inspection, those issues must be addressed before the permit is closed.

The bill creates s. 553.7905(5), F.S., which states that the requirements of subsection (4) apply regardless of whether the building permit is still open or expired.

The bill creates s. 553.7905(6), F.S., which states that the local enforcement agency may not deny issuance of a permit, issue a notice of violation, fine, penalize, sanction, or assess fees against a subsequent arms-length purchaser of a property solely because a building permit was not closed within one of the following time periods:

- Five years after the recording of the notice of commencement or last amendment thereto.
- Seven years after the building permit was issued if no notice of commencement was recorded.

The local enforcement agency maintains all rights and remedies against the property owner and contractor identified on the permit.

The bill creates s. 553.7905(7), F.S., which states that an individual trade permit may be closed six years after the issuance of the permit if no safety hazard exists and the permit has no failed inspections. This subsection does not apply to permits still under construction with a legally granted permit extension.

The bill creates s. 553.7905(8), F.S., which states that real property containing single or multiple family dwellings of up to four units, the owner of a home for sale may assume the role of an owner-builder in order to resolve an open permit for a substantially completed or abandoned project. Additionally, the owner-builder is not required to continue to reside on the property for one year.

The bill creates s. 553.7905(9), F.S., which states that a contractor may hold an unlimited number of active permits.

The bill creates s. 553.7905(10), F.S., which states that provisions of the Florida Building Code authorizing permits to be administratively closed do not apply to permits subject to regulation by a local enforcement agency not specifically enforcing the Florida Building Code, except if the local enforcement agency has authority over other areas related to the permit like zoning or other land use regulations.

The bill creates s. 553.7905(11), F.S., which requires local enforcement agencies to provide a written notice to anyone receiving a building permit. The written notice, in part, shall state that it is critical for anyone receiving a building permit to ensure that all inspections are passed prior to the expiration of any notice of commencement or amendment thereto.

The bill creates s. 553.7905(12), F.S., which limits a local governmental entity to only charge one search fee to check for open or unexpired permits per parcel. The fee must be commensurate with the research costs and time incurred by the jurisdiction.

The bill creates s. 553.7905(13), F.S., which requires local building departments, within one to three years of issuance of a permit, to send out notices to property owners that have failed to properly close out all permits on their property. Failure to receive the notice does not relieve the contractor or property owner from taking the necessary steps to close out the permit.

The bill creates s. 553.7905(14), F.S., which states that this act does not prevent a local governmental entity from enforcing any local land development code or other local ordinance so long as it is not inconsistent with this section.

Section 2

The effective date of the bill is October 1, 2019.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐

If yes, explain:	The Florida Building Commission will need to go into rulemaking to amend portions the Florida Building Code to be consistent with the bill.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 61G20-1.001, F.A.C.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
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FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☒ N ☐

Revenues:	N/A
Expenditures:	Possible additional cost for local enforcement agencies/building departments from additional notice and permit disclosure requirements.
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	N/A
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☒ N ☐

Revenues:	Unknown
Expenditures:	Possible increase in expenditures to the public for "open" or unexpired permit search fee.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	N/A
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ADDITIONAL COMMENTS

Division of Professions: Subsection 553.7095(4), F.S., releasing substitute contractors from liability for existing work will in practice effectively relieve the new contractor from all disciplinary liability. A substitute contractor is expected to be competent to assess, contract for, and repair the situation that was left behind by the previous contractor so that the project is brought into compliance with code.

Division of Service Operations: No impact.

Bureau of Education and Testing: No impact.

Fiscal Comment: Local governmental entities may incur a cost associated with the requirement that all permits have a disclosure stating that anyone receiving a building permit is required to comply with the conditions and requirements of the permit. There is not enough information to determine if there will be a revenue or expenditure impact on the private sector. However, there may be a cost to the public if a local governmental entity charges a search fee to check for "open" or unexpired permits. The fee must be commensurate with the research costs and time incurred by the jurisdiction.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>OGC Rules: Although the bill does not expressly provide rulemaking authority language within the bill's text, rulemaking may be required. Notwithstanding the aforementioned, it is unclear at this time how much time is needed with regards to promulgation and adoption of rulemaking, if required, for purposes of timely compliance with the bill's proposed effective date of October 1, 2019.</p> <p>OGC: No additional comments.</p>
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THE FLORIDA SENATE
APPEARANCE RECORD

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

3.26.19

Meeting Date

902

Bill Number (if applicable)

Topic OPEN PERMITS

Amendment Barcode (if applicable)

Name TREY GOLDMAN

Job Title Legislative Counsel

Address 200 S. MONROE ST.

Phone 850/224-1400

Street

Tallahassee

FL

32303

City

State

Zip

Email treyg@floridarealtors.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA REALTORS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/26/19

Meeting Date

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

SB 902

Bill Number (if applicable)

Topic Open Permits

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 265 South Monroe St. Suite 815

Phone 850-459-0992

Street

Tallahassee FL 32312

City

State

Zip

Email fbrown@deanread.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Real Property, Probate, and TRUST LAW SECTION of the Florida BAR

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 902
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 26, 2019
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE			3/26/2019 ¹ Motion to vote "YEA" after Roll Call					
Yea	Nay	SENATORS	Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
VA		Farmer						
X		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
10	0	TOTALS	FAV	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By Senator Perry

8-00857-19

2019902__

A bill to be entitled

An act relating to open and expired building permits; creating s. 553.7905, F.S.; specifying conditions under which a building permit is considered an open permit, expired permit, or closed permit; authorizing an open or expired permit to be closed on by or on behalf of the current property owner if certain requirements are met; prohibiting a local enforcement agency from taking certain actions against a subsequent arms-length purchaser of property because a building permit was not properly closed within certain time periods; providing that a local enforcement agency maintains all rights and remedies identified on the permit; providing that certain permits may be closed under certain circumstances; providing exceptions; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit under certain circumstances; providing that such owner is not required to reside in the home for a specified period; authorizing a contractor to hold an unlimited number of permits; providing that certain provisions of the Florida Building Code are not applicable to certain permits; providing an exception; requiring a local enforcement agency to provide written notice to a property owner when issuing a building permit; authorizing a governmental entity to charge a fee for searching for and identifying certain open or unexpired building permits; requiring a local enforcement agency to send

8-00857-19

2019902__

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

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

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

553.7905 Open and expired permits; procedures for closing; notices to owners applying for permits.—

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

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

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

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

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

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

8-00857-19

2019902__

Florida Building Code.

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

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

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

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

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

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

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

2. After providing the local enforcement agency a written

8-00857-19

2019902__

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

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

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

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

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

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

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

Signed:

...(affix licensing seal)...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IMPORTANT NOTICE REGARDING COMPLIANCE WITH THE
INSPECTION AND APPROVAL PROCESS FOR ALL BUILDING
PERMITS

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

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

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

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

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

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

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

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 Innovation, Industry, and Technology

BILL: SB 7064

INTRODUCER: Agriculture Committee

SUBJECT: Oil Drilling

DATE: March 25, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Becker	Becker		AG Submitted as Committee Bill
1.	Wiehle	Imhof	IT	Favorable
2.			EN	
3.			AP	

I. Summary:

SB 7064 prohibits fracking in this state and provides that a permit for drilling or operating a well does not authorize fracking. It also prohibits the disposal of flowback fluid by deepwell injection or any other below ground method, and the use of flowback fluid to irrigate crops.

The bill defines the term “fracking” as all stages of a well intervention performed by injecting large volumes of fluids at a high rate into a rock formation at pressures that exceed the fracture gradient of the rock formation in order to propagate hydraulic fractures. It specifies that this does not include other well intervention techniques, including conventional well stimulation or conventional workover procedures; techniques used for routine well work, well maintenance, or removal of formation damage due to drilling or production; or conventional acidizing techniques used to enhance, maintain, or restore the natural permeability of the formation.

The bill increases bonding requirements and civil penalties for violations occurring in the Everglades Protection Area. It also specifies requirements when drilling in the Everglades Protection Area. The bill:

- Requires the Department of Environmental Protection (DEP or department) to evaluate each application to drill and to visit each proposed access route and drilling site in the area to ensure that exploration and production activities will not cause any permanent adverse impact;
- Sets criteria for DEP to use when evaluating applications, with specific criteria for roads/road extensions, drilling sites, and production;
- Requires a wildlife impact study to be completed at the time of the initial application and at the time of subsequent recertification; and
- Prohibits oil refining within the Everglades Protection Area.

II. Present Situation:

Production of Conventional Versus Unconventional Oil and Gas Resources: The Use of Well Stimulation Techniques

Conventional oil and gas resources are found in permeable sandstone and carbonate reservoirs.¹ Wells have historically been drilled vertically, straight down into a rock formation to extract conventional resources. Whereas conventional resources are found in concentrated underground locations, unconventional resources are highly dispersed through impermeable or “tight” rock formations, such as shales and tight sands.² To extract unconventional resources, drilling has generally shifted from vertical to horizontal.³

Well stimulation techniques are used in the production of both conventional and unconventional resources. The techniques can be focused solely on the wellbore (drilled hole) for maintenance and remedial purposes or can be used to increase production from the reservoir.⁴ The relatively recent development of horizontal or directional drilling in conjunction with the expanded use of well stimulation techniques has increased the production at oil or gas wells and has led to the profitable extraction of unconventional resources.⁵ The three main well stimulation techniques are hydraulic fracturing, acid fracturing, and matrix acidizing.⁶ Hydraulic fracturing and acid fracturing are commonly referred to as “fracking.”

Florida Geology

The choice of well stimulation technique to be used is strongly influenced by the site’s geology and the type of rock forming the oil reservoir. Geologically, most of Florida is limestone,⁷ and much of Florida has developed into karst terrain, the generic term for landforms that have been shaped by dissolution of the underlying carbonate rocks. Karst drainage is characterized by sinkholes, springs, caves, disappearing streams, and underground drainage channels. Because development of a karst terrain involves the development of underground drainage systems, karst formation processes tend to be secretive and imperceptible. The results of these persistent processes will be manifested, sooner or later, in one or more of several possible developments, including a sudden influx of muddy water in a water-well after a heavy rain.⁸

¹ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 2 (Apr. 22, 2015), available at <https://www.fas.org/sgp/crs/misc/R43148.pdf> (last visited Jan. 28, 2019).

² *Id.*

³ U.S. Energy Information Administration (EIA), *Hydraulically fractured horizontal wells account for most new oil and natural gas wells* (Jan. 30, 2018), <https://www.eia.gov/todayinenergy/detail.php?id=34732> (last visited Jan. 28, 2019).

⁴ California Council on Science and Technology Lawrence Berkeley National Laboratory, *An Independent Assessment of Well Stimulation in California*, vol. 1, *Well stimulation technologies and their past, present, and potential future use in California*, 13–14 (January 2015) [hereinafter *CA Study*], available at <https://ccst.us/wp-content/uploads/160708-sb4-vol-1.pdf> (last visited Jan. 28, 2019).

⁵ *Id.* at 2.

⁶ *Id.* at 28.

⁷ See, e.g., Basic Florida Geology, available at <http://www.floridacaving.com/pages/misc/geoflorida.htm> (last visited Mar. 19, 2019).

⁸ Florida’s oil production is primarily from limestone or dolomite, soft, porous, and permeable stone, with one field consisting of sandstone. *Florida’s Geological History and Geological Resources*, Special Publication No. 35, Department of Environmental Protection, 1994, pages 47-50, available at http://publicfiles.dep.state.fl.us/FGS/FGS_Publications/SP/SP35LaneHistoryResources.pdf (last visited Mar. 18, 2019).

The formation of a karst terrain is due predominantly to chemical weathering, which dissolves the carbonate rock and removes rock-mass. As rain falls through the atmosphere, some carbon dioxide and nitrogen gases dissolve in it, forming a weak acidic solution. When the water comes into contact with decaying organic matter in the soil, it becomes more acidic. Upon contact with limestone, a chemical reaction takes place that dissolves some of the rock. Limestone is especially susceptible to dissolution by acidic water. Limestone, by nature, tends to be fractured, jointed, laminated, and have units of differing texture, all characteristics which, from the standpoint of percolating ground water, are potential zones of weakness. These zones of weakness in the limestone are avenues of attack that, given time, the acidic waters will enlarge and extend. Given geologic time, conduits will permeate the rock that allow water to flow relatively unimpeded for long distances.⁹

Common geological characteristics of karst regions that influence human use of its land and water resources include ground subsidence, sinkhole collapse, groundwater contamination, and unpredictable water supply.¹⁰

Hydraulic Fracturing

The department developed the following information on hydraulic fracturing:

Hydraulic fracturing consists of injecting a mixture of water, sand, and several trace chemicals into the oil/gas reservoir at high pressures sufficient to increase permeability by introducing fractures into the reservoir rock or by enlarging existing fractures. The objective generally is to connect isolated porosity in “tight” (low permeability) rock. When the pressure is reduced, the new fluid pathways are propped open by more permeable media such as sand (or artificial proppants such as ceramic beads) that are injected with the water, allowing improved oil/gas flow to the well. In general, the proven oil and gas reserves in both northwest and south Florida are composed of carbonate formations or reservoirs that already have relatively high permeability compared to the tighter shale or similar formations that are the subject of hydraulic fracturing proposals and environmental studies in other states. As a result, hydraulic fracturing has never been proposed or reviewed for the unique oil producing formations in Florida and would be of questionable value for conservation of oil and gas resources in this state. If hydraulic fracturing were to be proposed in Florida, further research and study would be warranted first to evaluate the potential oil and gas conservation benefits and environmental concerns that have been raised nationally for other states when compared with the unique geologic circumstances in Florida.¹¹

⁹ *Id.*

¹⁰ Karst Waters Institute, *What is Karst? And why is it important?*, <https://karstwaters.org/educational-resources/what-is-karst-and-why-is-it-important/> (last visited Mar. 19, 2019).

¹¹ DEP, *Hydraulic Fracturing Background and Recommendations*, 1 (Sept. 29, 2011) available at http://news.caloosahatchee.org/docs/Dep_Fracturing_Response_130118.pdf (last visited Mar. 14, 2019).

Acid Fracturing

Acid fracturing is generally more successful than hydraulic fracturing in carbonate reservoirs because of the relatively high degree of natural fractures present.¹² Acid fracturing is a well stimulation technique in which well operators pump acidic fluids into a well at a pressure that exceeds the fracture gradient and fractures the rock. The acid etches the walls of the resulting fractures and eliminates the need to use a proppant because the fractures remain open after pressure is released.¹³ It can be an effective method for stimulating limestone formations.¹⁴ The produced fluids have a much lower acid content than the injected fluids because most of the acid that is injected is neutralized through a reaction with the rock.^{15, 16}

One of the main factors that adversely affects acid fracture growth is fluid loss, or acid “leakoff.” Acid leakoff can result in the enlargement of channels and natural fractures and can greatly increase the area from which fluid loss occurs, making fluid-loss control difficult and preventing acid from reaching untreated parts of the fracture.¹⁷

Matrix Acidizing

Matrix acidizing uses larger volumes of acid solution injected at pressures below the fracture gradient. It does not produce fracturing; however, hydrochloric acid, commonly used for matrix acidizing in carbonate reservoirs, is very effective at dissolving carbonate minerals (including limestone), generating highly nonuniform dissolution patterns called wormholes, which can penetrate up to 20 feet from the wellbore.¹⁸ Careful treatment, design, and execution is required when performing a matrix acidizing treatment to minimize the probability of acid entering into highly permeable sections of the formation, which could create channels into water-producing zones.¹⁹

Production of Oil and Gas Resources in Florida

Northwest and South Florida are the major oil and gas producing areas in the state. Annual production of petroleum from these two regions peaked at more than 47 million barrels in 1978, but has subsequently decreased, with annual statewide production dropping to less than 2 million barrels by 2017.²⁰ There are currently two active oil and gas fields in Northwest Florida, and seven active oil and gas fields in South Florida.²¹ In 2018, there were 57 active producer wells in

¹² *CA Study*, at 56.

¹³ *Id.*, at 28.

¹⁴ *Id.*, at 25.

¹⁵ *Id.*, at 14.

¹⁶ Limestone is an alkaline agent with the ability to neutralize, or partially neutralize strong acids. When acid comes into contact with limestone, the acid react with Calcium Carbonate (the primary constituent of limestone) to form water, carbon dioxide, and calcium salts. *Limestone pH Adjustment Systems*, Digital Analysis Corporation, available at <http://www.phadjustment.com/TArticles/Limestone.html> (last visited Mar. 19, 2019).

¹⁷ Middle East & Asia Reservoir Review, vol. 4, *Stimulate the Flow*, 46 (Jan. 2003), available at https://www.slb.com/resources/publications/industry_articles/mearr/num4_stimulate_flow.aspx (last visited Mar. 14, 2019).

¹⁸ *CA Study*, at 69.

¹⁹ *Id.*, at 44.

²⁰ EIA, Florida, *Profile Analysis: Petroleum*, <http://www.eia.gov/state/analysis.php?sid=FL> (last visited Mar. 14, 2019).

²¹ DEP, *State Production Data* (2018), available at <https://floridadep.gov/water/oil-gas/documents/state-production-data> (last visited Mar. 14, 2019).

Florida.²² The department's 2018 Annual Production Report totaled oil production at 1,839,069 barrels statewide.²³ Proven oil and gas reserves in Northwest and South Florida are composed of carbonate formations (limestone and dolomite reservoirs), which have naturally higher permeability than the tighter shale or similar formations.²⁴ Rather than hydraulic fracturing, well operators in the state have generally preferred washing or flushing the formations, or other alternative methods, to open carbonate pathways and enhance recovery of oil and gas resources.²⁵

While geologists believe that there may be oil and natural gas deposits off Florida's western coast, the state enacted a drilling ban for state waters in 1990 and, in 2006, Congress banned the leasing of federal offshore blocks within 125 miles of Florida's western coast until at least 2022.²⁶ Additionally, federal law gives priority use of much of the area to the military for training.²⁷ In 2018, the Florida constitution was amended to prohibit drilling for exploration or extraction of oil or natural gas on lands "beneath all state waters which have not been alienated and that lie between the mean high water line and the outermost boundaries of the state's territorial seas."²⁸

Environmental Concerns

There are a variety of environmental concerns relating to well stimulation techniques. Potential impacts and concerns include: groundwater or surface water contamination; stress on water supplies; inadequate wastewater management and disposal; and air quality degradation.²⁹ Because well stimulation techniques are applied to so many types of underground formations using a variety of methods and fluids, environmental impacts vary depending on factors such as the toxicity of the fluid used; the closeness of the fracture zone to underground drinking water; the existence of a barrier between the fracture formation and other formations; and method of wastewater disposal.³⁰

Water Quality

The majority of Florida's public water supply is obtained from groundwater sources, such as the Floridan aquifer system.³¹ Areas in which oil and gas have been extracted have an upper confining unit that is generally greater than 100 feet, which may serve as a barrier to

²² *Id.*

²³ *Id.*

²⁴ DEP, *Hydraulic Fracturing Background and Recommendations*, 1–3 (Sept. 29, 2011) available at http://news.caloosahatchee.org/docs/Dep_Fracturing_Response_130118.pdf (last visited Mar. 14, 2019).

²⁵ *Id.* at 3.

²⁶ EIA, Florida, *Profile Analysis: Petroleum*, <http://www.eia.gov/state/analysis.php?sid=FL> (last visited Mar. 14, 2019); see Pub. L. No. 109-432, s. 104(a)(2), 120 Stat. 3003 (2006); see s. 377.242(1), F.S.

²⁷ *Id.*

²⁸ FLA CONST. art. II, s. 7.

²⁹ EPA, *Unconventional Oil and Natural Gas Development, Providing Regulatory Clarity and Protections Against Known Risks*, <https://www.epa.gov/uog> (last visited Mar. 14, 2018).

³⁰ Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115, 6 (2009).

³¹ DEP, *Aquifers*, <https://fldep.dep.state.fl.us/swapp/Aquifer.asp> (last visited Mar. 14, 2019).

contamination.³² Based on current technical information, it is believed that the producing formations in Florida are too deep below any potential underground sources of drinking water for hydraulic fracturing contamination to be a valid concern. For example, in south Florida where the shallowest producing depths are below 11,300 feet, the bottom of the underground sources of drinking water has been consistently identified at depths above 2,100 to 2,200 feet below land surface. In northwest Florida, oil producing depths are greater than 14,000 feet in one case and otherwise at depths greater than 15,000 feet below land surface, while the bottom of the underground sources of drinking water at depths between 1,500 to 1,800 feet below land surface. Research on the potential effects of hydraulic fracturing in softer, less brittle and more permeable materials such as the carbonate deposits in Florida does not appear to be readily available.³³

Surface water contamination may occur because of the inadequate storage and disposal of produced water. Produced water is the water that comes back to the surface as part of the oil and gas production process, and has generally been found to contain salts, metals, organic compounds, radioactive materials, and hydraulic fracturing chemicals.³⁴ For a hydraulically fractured well, the produced water includes the fracturing fluids, or flowback. While the chemicals used will vary by region or between wells, some chemicals used in hydraulic fracturing are toxic.³⁵ It is estimated that approximately 10-40 percent of the volume of injected fracturing fluids return to the surface after hydraulic fracturing.³⁶

Water Supply

The amount of water used during the performance of a hydraulic fracturing treatment depends on factors such as the well depth, formation geology, and the composition of the fluids injected. In most cases, the large majority of the fracturing fluid is water, and each hydraulically fractured well can require thousands to millions of gallons of water.³⁷ While the total water use for hydraulic fracturing is relatively low compared to other industrial uses of water, wells that are good candidates for such techniques are usually located near the same water source and, as a result, the collective impact of water withdrawals can be significant.³⁸

³² U.S. Geological Survey, *Conceptual Model of the Floridan*, <http://fl.water.usgs.gov/floridan/conceptual-model.html> (last visited Mar. 14, 2019).

³³ DEP, *Hydraulic Fracturing Background and Recommendations*, 3 (Sept. 29, 2011) available at http://news.caloosahatchee.org/docs/Dep_Fracturing_Response_130118.pdf (last visited Mar. 14, 2019).

³⁴ EPA Study, at ES-33, available at <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990> (last visited Mar. 14, 2019).

³⁵ *Id.* at 9-1, 9-16; see FracFocus, *What Chemicals Are Used*, <https://fracfocus.org/chemical-use/what-chemicals-are-used> (last visited Mar. 14, 2019).

³⁶ Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8340 (2014).

³⁷ EPA Study, at 4-3, 4-11, available at <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990> (last visited Mar. 14, 2019).

³⁸ Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8343 (2014); Hannah Wiseman, *Risk and Response in Fracturing Policy*, 84 UNV. OF COL. L. REV. 729-817, 776 (2009).

Wastewater Management and Disposal

The majority of produced water is disposed of using injection wells.³⁹ Injection wells are permitted under the Underground Injection Control (UIC) program.⁴⁰ The goal of the UIC program is the effective isolation of injected fluids from underground sources of drinking water.⁴¹ Class II injection wells are designed for injecting fluids associated with the production of oil and natural gas, or fluids used to enhance hydrocarbon recovery. While the injection of fracturing fluids, unless the fluid contains diesel, is exempt from the UIC program, the wastewater from oil and gas operations is not exempt.⁴² There are currently 22 permitted Class II UIC wells used for disposal in Florida.⁴³

Air Quality

The key aerial emissions associated with unconventional oil and gas production include methane (the main component of natural gas and a potent greenhouse gas), volatile organic compounds (VOCs), nitrogen oxides, sulfur dioxide, particulate matter, and various hazardous air pollutants.⁴⁴ In 2012, the EPA issued the first federal air standards for hydraulically fractured natural gas wells.⁴⁵ The New Source Performance Standards required reductions in VOC emissions from hydraulically fractured natural gas wells.⁴⁶

In May of 2016, the EPA issued three regulations which together sought to curb emissions of methane, VOCs, toxins, and air pollutants, such as benzene, from new, reconstructed, and modified oil and gas sources.⁴⁷ The final regulation on new and modified sources required compressor stations to monitor leaks, also known as “fugitive emissions,” and required owners or operators to find and repair such leaks, which can be a significant source of both methane and

³⁹ *Id.* at 8-3.

⁴⁰ EPA, *Underground Injection Control, General Information About Injection Wells*, <https://www.epa.gov/uic/general-information-about-injection-wells> (last visited Mar. 14, 2019).

⁴¹ *Id.*

⁴² Watershed Council, *Regulations and Exemptions*, <https://www.watershedcouncil.org/hydraulic-fracturing---regulations-and-exemptions.html> (last visited Mar. 14, 2019).

⁴³ Email from Kevin Cleary, Director of Legislative Affairs, DEP, RE: Class II Injection Wells in FL (Feb. 11, 2019).

⁴⁴ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 9 (Apr. 22, 2015); see Richard Lattanzio, R 42986, *Methane and Other Air Pollution Issues in Natural Gas Systems* (Nov. 5, 2018), available at <https://fas.org/sgp/crs/misc/R42986.pdf> (last visited Mar. 14, 2019).

⁴⁵ Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, 14 (Mar. 14, 2015).

⁴⁶ EPA, *Controlling Air Pollution from the Oil and Natural Gas Industry*, <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry> (last visited Mar. 14, 2019).

⁴⁷ Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources, 81 Fed. Reg. 35824–35942 (June 3, 2016), available at <https://www.govinfo.gov/content/pkg/FR-2016-06-03/pdf/2016-11971.pdf> (last visited Mar. 14, 2019); Source Determination for Certain Emission Units in the Oil and Natural Gas Sector, 81 Fed. Reg. 35622–35634 (June 3, 2016), available at <https://www.govinfo.gov/content/pkg/FR-2016-06-03/pdf/2016-11968.pdf> (last visited Mar. 14, 2019); Federal Implementation Plan for True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector; Amendments to the Federal Minor New Source Review Program in Indian Country To Address Requirements for True Minor Sources in the Oil and Natural Gas Sector, 81 Fed. Reg. 35944–35981 (June 3, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2016-06-03/pdf/2016-11969.pdf> (last visited Mar. 14, 2019).

VOC pollution.⁴⁸ The regulation phased in requirements for a process known as “green completion” to capture aerial emissions from hydraulically fractured wells.⁴⁹ The EPA expects that implementation of the regulation will reduce air pollutants and toxins, as well as provide health benefits related to reductions in fine particle pollution and ozone toxics, along with improvements in visibility.⁵⁰ In October of 2018, the EPA proposed clarifications and amendments regarding details of the regulation’s implementation.⁵¹

Regulation of Well Stimulation Techniques

Federal Regulation

There is limited direct federal regulation over oil and gas activities. In 2005, Congress passed the Energy Policy Act amending, in part, the Safe Drinking Water Act (SDWA) and the Clean Water Act (CWA).⁵² The SDWA was amended to revise the definition of the term “underground injection” to specifically exclude the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations.⁵³ The CWA contains exemptions from stormwater permitting requirements for oil and gas exploration production, processing, or treatment operations or transmission facilities.⁵⁴ Although the 2005 Energy Policy Act broadened the exemptions to include “construction activities” in the definition of oil and gas exploration and production, any flows from oil and gas operations which are contaminated or come into contact with overburden, raw material, intermediate products, finished product, byproduct, or waste products remain regulated under the CWA.⁵⁵

In March 2015, in an attempt to regulate hydraulic fracturing on federal and tribal lands, the Bureau of Land Management (BLM) published final regulations governing hydraulic fracturing.⁵⁶ The regulations were to take effect on June 24, 2015. However, the United States

⁴⁸ EPA, *EPA’s Actions to Reduce Methane Emissions from the Oil and Gas Industry: Final Rules and Draft Information Collection Request*, 2 (2016), available at <https://www.epa.gov/sites/production/files/2016-09/documents/nsp-overview-fs.pdf> (last visited Mar. 14, 2019).

⁴⁹ *Id.* at 3.

⁵⁰ *Id.* at 4.

⁵¹ Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration, 83 Fed. Reg. 52056–52107 (Oct. 15, 2018), available at <https://www.govinfo.gov/content/pkg/FR-2018-10-15/pdf/2018-20961.pdf> (last visited Feb. 28, 2019); see EPA, *EPA Proposes Amendments to the 2016 New Source Performance Standards for the Oil and Natural Gas Industry: Fact Sheet* (2018), available at https://www.epa.gov/sites/production/files/2018-09/documents/oil_and_gas_technical_proposal_fact_sheet.9.11.18_0.pdf (last visited Mar. 14, 2019).

⁵² Energy Policy Act of 2005, H.R. 6, 109th Cong. (2005-2006).

⁵³ See 42 U.S.C. s. 300h(d) (2012).

⁵⁴ 33 U.S.C. s 1342 (l)(2) (2012).

⁵⁵ 33 U.S.C. s. 1362(24) (2012); *NRDC v. U.S. EPA*, 526 F.3d 591, 599, 608 (9th Cir. 2008)(vacating an EPA rule implementing the 2005 amendment); William J. Brady, *Hydraulic Fracturing Regulation in the United States: The Laissez-faire Approach of the Federal Government and Varying State Regulations*, 7–8 (2012), available at <http://www.law.du.edu/documents/faculty-highlights/Intersol-2012-HydroFracking.pdf> (last visited Mar. 14, 2019). Oil and gas construction facilities remain subject to the CWA’s permitting requirements for stormwater, and for discharging a pollutant into navigable waters, when applicable.

⁵⁶ *Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands*, 80 Fed. Reg. 16,128-16,222 (Mar. 26, 2015). Under the final BLM regulations, the term “hydraulic fracturing” is defined as “those operations conducted in an individual wellbore designed to increase the flow of hydrocarbons from the rock formation to the wellbore through modifying the permeability of reservoir rock by applying fluids under pressure to fracture it. Hydraulic fracturing does not include enhanced secondary recovery such as water flooding, tertiary recovery, recovery through steam injection, or other types of well stimulation operations such as acidizing.”

District Court for the District of Wyoming granted a preliminary injunction and the regulation was stayed.⁵⁷ In June 2016, the court held that the BLM lacked authority to regulate hydraulic fracturing and set aside the final regulations.⁵⁸ The court's ruling was appealed to the United States Court of Appeals Tenth Circuit, which dismissed the appeal and remanded with directions to vacate the district court's opinion and dismiss the action without prejudice in light of the Bureau of Land Management's decision to rescind the final regulations.⁵⁹

While direct regulation over well stimulation techniques at the federal level is limited, there are several federal statutes that regulate the indirect impacts of oil and gas extraction. The EPA's Oil and Gas Extraction Effluent Guidelines and Standards regulate wastewater discharges from field exploration, drilling, production, well treatment, and well completion activities. The regulations apply to conventional and unconventional extraction, with the exception of extractions of coalbed methane. These standards are incorporated into the CWA's National Pollutant Discharge Elimination System regulatory framework.⁶⁰

Because oil and gas activities may result in the release of hazardous substances into the environment at or under the surface in a manner that may endanger public health or the environment, these activities are regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).⁶¹ While recovered petroleum or natural gas is exempt from the act, other hazardous substances that result from oil or gas production, such as fracturing fluids, are subject to CERCLA.⁶² If a release of such fluids occurs, the facility owner and operator could face liability under CERCLA.⁶³

To ensure that employees who may be exposed to hazardous chemicals in the workplace are aware of the chemicals' potential dangers, manufacturers and importers must obtain or develop Material Safety Data Sheets (MSDS) for hydraulic fracturing chemicals that are hazardous according to the Occupational Safety and Health Administration (OSHA) standards.⁶⁴ MSDS must be maintained for hazardous chemicals at each job site and must, at a minimum, include the chemical names of substances that are considered hazardous under the OSHA regulations.⁶⁵

⁵⁷ *State of Wyo. vs. U.S. Dept. of the Int.*, No. 2: 15-CB-043-SWS (D. Wyo. Sept. 30, 2015) (granting a preliminary injunction), available at <http://www.wyd.uscourts.gov/pdfforms/orders/15-cv-043%20130%20order.pdf> (last visited March 14, 2019).

⁵⁸ *State of Wyo. vs. U.S. Dept. of the Int.*, No. 2: 15-CV-043-SWS (D. Wyo. June 21, 2016), available at <http://www.wyd.uscourts.gov/pdfforms/orders/15-cv-043-S%20Order.pdf> (last visited March 14, 2019).

⁵⁹ *State of Wyo. vs. U.S. Dept. of the Int.*, No. 16-8068 (10th Cir. Sept. 21, 2017), available at <https://www.ca10.uscourts.gov/opinions/16/16-8068.pdf> (last visited March 14, 2019).

⁶⁰ EPA, *Oil and Gas Extraction Effluent Guidelines, Rule Summary*, available at <http://www.epa.gov/eg/oil-and-gas-extraction-effluent-guidelines> (last visited March 14, 2019).

⁶¹ 42 U.S.C. ss. 9601-9675 (2012); Adam Vann, Brandon J. Murrill, & Mary Tiemann, Cong. Research Serv., R 43152, *Hydraulic Fracturing: Selected Legal Issues*, 12 (Sept. 26, 2014), available at <https://www.fas.org/sgp/crs/misc/R43152.pdf> (last visited March 14, 2019).

⁶² Adam Vann, Brandon J. Murrill, & Mary Tiemann, Cong. Research Serv., R 43152, *Hydraulic Fracturing: Selected Legal Issues*, 12–13 (Sept. 26, 2014).

⁶³ *Id.* at 13.

⁶⁴ *Id.* at 22.

⁶⁵ *Id.*

Regulation in Other States

States have primary jurisdiction and authority over the regulation of oil and gas activities. Almost all states with economically viable production wells have extensive regulatory programs in place for permitting and monitoring oil and gas activities. Recent advances in technology and the widespread use of well stimulation techniques, particularly hydraulic fracturing, have motivated some states to update and revise their oil and gas regulations to specifically address such techniques or to ban certain techniques altogether.⁶⁶

Vermont, New York, and Maryland prohibit hydraulic fracturing. In 2012, Vermont banned the practice of hydraulic fracturing.⁶⁷ In 2015, New York's Department of Environmental Conservation found that there were "no feasible or prudent alternatives [other than a ban which] would adequately avoid or minimize adverse environmental impacts and that address the scientific uncertainties and risks to public health from [high-volume hydraulic fracturing]." ⁶⁸ The Findings Statement effectively banned high-volume hydraulic fracturing in the state of New York.⁶⁹ In 2017, Maryland prohibited hydraulic fracturing for the exploration or production of oil or natural gas.⁷⁰

Regulation in Florida

In Florida, DEP has regulatory authority over oil and gas resources. The Division of Water Resource Management (division) within DEP oversees the permitting process for drilling production and exploration. DEP has adopted rules to implement and enforce the regulation of oil and gas resources.⁷¹ The division has jurisdiction and authority over all persons and property necessary to administer and enforce all laws relating to the conservation of oil and gas.⁷² Local government approval is required for drilling in tidal waters, near improved beaches, and within municipal boundaries.⁷³

When issuing permits for oil and gas exploration or extraction, the division is required to consider the nature, character, and location of the lands involved; the nature, type, and extent of

⁶⁶ See Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009); see also *State of Wyo. vs. U.S. Dept. of the Int.*, No. 2: 15-CB-043-SWS at 40 (D. Wyo. Sept. 30, 2015) (showing a list of states with regulations that address hydraulic fracturing).

⁶⁷ 29 V.S.A. § 571; 29 V.S.A. § 503(30). The statute defines the term "hydraulic fracturing" as "the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas."

⁶⁸ New York Department of Environmental Conservation, *Final Supplemental Generic Environmental Impact Statement on the Oil, Gas, and Solution Mining Regulatory Program: Regulatory Program for Horizontal Drilling and High-Volume Hydraulic Fracturing to Develop the Marcellus Shale and Other Low-Permeability Gas Reservoirs*, Findings Statement, 42 (June 2015), available at http://www.dec.ny.gov/docs/materials_minerals_pdf/findingstatehvhf62015.pdf (last visited Mar. 14, 2019).

⁶⁹ See *Id.* at 41. The Findings Statement defined the term "high-volume hydraulic fracturing" as "the stimulation of a well using 300,000 or more gallons of water as the base fluid for hydraulic fracturing for all stages in a well completion, regardless of whether the well is vertical or directional, including horizontal."

⁷⁰ Maryland Code § 14-107.1 (2017). Under Maryland law, the term "hydraulic fracturing" is defined as "a stimulation treatment performed on oil and natural gas wells in low-permeability oil or natural gas reservoirs through which specially engineered fluids are pumped at high pressure and rate into the reservoir interval to be treated, causing fractures to open."

⁷¹ Fla. Admin. Code, Chapters 62C-25–62C-30.

⁷² Section 377.21(1), F.S.

⁷³ Section 377.24, F.S.

ownership of the applicant; and the proven or indicated likelihood of the presence of oil, gas, or related minerals on a commercially viable basis.⁷⁴ DEP is required to issue orders and adopt rules that ensure all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of drilling for and extracting oil, gas, or other petroleum products.⁷⁵ The purposes of such rules and orders include preventing the pollution of fresh, salt, or brackish waters or lands of the state, and preventing the escape of oil or other petroleum products from one stratum to another.⁷⁶

Before any person begins work other than environmental assessments or surveying at the site of a proposed drilling operation, a permit to drill is required and a preliminary site inspection must be conducted by DEP.⁷⁷ An application to DEP for a permit to drill must include a proposed casing and cementing program⁷⁸ and a location plat survey.⁷⁹ The regulations require the operator to case and cement wells in order to maintain well control and prevent degradation of other natural resources, including water.⁸⁰ Each drilling permit is valid for one year from the date of approval.⁸¹ Before a permit is granted, the owner or operator is required to post a bond or other form of security for each well.⁸²

Before a well is used for its intended purpose, a permit to operate the well must be obtained.⁸³ Operating permits are valid for the life of the well, although each operating well and permit must be recertified every five years from the permit date.⁸⁴ Each application and subsequent recertification must include: the appropriate fee; bond or security coverage; a spill prevention and cleanup plan; flowline specifications and an installation plan; containment facility certification; and additional reporting and data submissions, such as driller's logs and monthly well reports.⁸⁵

A separate permit is not required for the performance of well stimulation techniques. Such techniques are regulated as workovers.⁸⁶ DEP regulations define the term "workover" as: "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates."⁸⁷ An operator is required to notify DEP before commencing a workover procedure and must submit a revised well record to DEP within 30 days after the workover.⁸⁸

⁷⁴ Section 377.241, F.S.

⁷⁵ Section 377.22(2), F.S.

⁷⁶ *Id.*

⁷⁷ Fla. Admin. Code R. 62C-26.003.

⁷⁸ In oil and gas wells, the "casing" is a hollow steel pipe used to line the inside of the wellbore, and the casing is usually surrounded by a cement sheath. *See, e.g.,* FracFocus, *Well Construction & Groundwater Protection*, <https://fracfocus.org/hydraulic-fracturing-how-it-works/casing> (last visited Mar. 14, 2019).

⁷⁹ *Id.*

⁸⁰ Fla. Admin. Code R. 62C-27.005. The regulations specify standards for casing depth and pressure testing.

⁸¹ Fla. Admin. Code R. 62C-26.003.

⁸² Fla. Admin. Code R. 62C-26.002.

⁸³ Fla. Admin. Code R. 62C-26.008.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ The division is required to adopt rules to "regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations." Section 377.22, F.S.

⁸⁷ Fla. Admin. Code R. 62C-25.002(61).

⁸⁸ Fla. Admin. Code R. 62C-29.006.

In December 2013, DEP received a workover notice proposing use of an enhanced extraction procedure. The department requested that the company that submitted the notice not complete the procedure until DEP could conduct a review.⁸⁹ When the company commenced with the procedure, DEP issued a cease and desist order.⁹⁰ DEP fined the company \$25,000 for violating the cease and desist order.⁹¹ It was concluded that the workover performed on the well involved hydraulic fracturing.⁹²

A person that violates any statute, rule, regulation, order, or permit of the division relating to the regulation of oil or gas resources or who refuses inspection by the division is liable for damages caused to the air, waters, or property of the state; for the reasonable costs of tracing the source of the discharge and for controlling and abating the source and the pollutants; and for the costs of restoring the air, waters, and property.⁹³ Such persons are also subject to judicial imposition of a civil penalty of up to \$10,000 for each offense.⁹⁴ Each day during any portion of which a violation occurs constitutes a separate offense.⁹⁵

Local Regulation

While cities and counties do not operate oil and gas permitting programs in Florida, some, through their land use regulations or zoning ordinances, require special exceptions for oil and gas activities or limit oil and gas activities to certain zoning classifications.⁹⁶ When authorizing oil and gas activities, local governments consider factors such as consistency with their comprehensive plan, injuries to communities or the public welfare, and compliance with zoning ordinances.⁹⁷ DEP may not issue a permit for drilling within the corporate limits of a municipality unless the municipality first adopts a resolution approving the permit.⁹⁸ Six municipalities (Estero, Bonita Springs, Coconut Creek, Cape Coral, Dade, and Zephyrhills) and thirteen counties (Alachua, Bay, Brevard, Broward, Citrus, Indian River, Martin, Miami-Dade, Osceola, Pinellas, St. Lucie, Volusia, Wakulla, and Walton) have banned one or more forms of well stimulation techniques by ordinance.⁹⁹ Additionally, many other counties and cities have

⁸⁹ *State of Florida Department of Environmental Protection vs. Dan A. Hughes Company, L.P.*, OGC File No. 14-0012, 2 (April 8, 2014), available at https://www.doah.state.fl.us/FLAID/DEP/2014/DEP_14-0012_05162014_014716.pdf (last visited Mar. 14, 2019).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² ALL Consulting, LLC., *Expert Evaluation of the D.A. Hughes Collier-Hogan 20-3H, Well Drilling and Workover*, Prepared for Florida Department of Environmental Protection, 4 (2014), available at <https://assets.documentcloud.org/documents/1507525/allconsulting.pdf> (last visited Mar. 14, 2019).

⁹³ Section 377.37(1)(a), F.S.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See, e.g., Lee County's Land Development Code §§ 34-1651 and 34-145(c).

⁹⁷ *Id.*

⁹⁸ Section 377.24(5), F.S.

⁹⁹ Village of Estero, Ordinance No. 2015-19; Bonita Spring's Land Development Code, Chapter 4, Article VI, Division 15, Section 4-1380; Coconut Creek's Land Development Code, Article IV, Section 13-1000; City of Cape Coral, Ordinance §3.23; City of Dade, Ordinance No. 2016-08; City of Zephyrhills, Ordinance No. 1310-16; Alachua County's Code of Ordinances, §77.13.5; Bay County's Land Development Regulation, §311; Brevard County's Code of Ordinances, §46-375; Citrus County's Code of Ordinances, §66-133; Indian River County's Code of Ordinances, §317.03; Osceola County's Land Development Code, §4.12.3; Broward County's Code of Ordinances, §27-193; Martin County's Code of Ordinances, §67.441; Miami-Dade County's Code of Ordinances, §33-437; Pinellas County's Code of

passed resolutions supporting various types of bans and moratoriums relating to well stimulation techniques.¹⁰⁰

III. Effect of Proposed Changes:

Fracking and Flowback Fluid

The bill creates s. 377.2405, F.S., to prohibit fracking and state that a permit for drilling or operating a well does not authorize fracking. The bill amends s. 377.19, F.S., to define the term “fracking” as: all stages of a well intervention performed by injecting large volumes of fluids at a high rate into a rock formation at pressures that exceed the fracture gradient of the rock formation in order to propagate hydraulic fractures. The term does not include other well intervention techniques, including conventional well stimulation or conventional workover procedures; techniques used for routine well cleanout work, well maintenance, or removal of formation damage due to drilling or production; or conventional acidizing techniques used to enhance, maintain, or restore the natural permeability of the formation.

The bill also prohibits disposal of “flowback fluid” by deep well injection or any other below ground method. It defines the term to mean any liquid that flows back to the surface during or after completion of well stimulation. The bill amends s. 570.93, F.S., to ban the use of “flowback fluid” for crop irrigation and to define that term to mean any liquid that flows back to the surface during or after completion of well stimulation.

Everglades Protection Area

The bill creates s. 377.421, F.S., to provide criteria for drilling in the “Everglades Protection Area” a term defined to mean Water Conservation Areas 1, 2A, 2B, 3A, and 3B; the Arthur R. Marshall Loxahatchee National Wildlife Refuge; and the Everglades National Park.

The bill requires the department to evaluate each application to drill and visit each proposed access route and drilling site in the Everglades Protection Area to ensure that the exploration and production activities will not cause any permanent adverse impact on the water resources or the sheet flow of the area or on the vegetation or the wildlife of the area, with a special emphasis placed on rare and endangered species. A wildlife impact study must be completed at the time of the initial application and at the time of subsequent recertification. If a proposed site is located on developed or highly impacted uplands, the department must review the application and field inspection reports from staff to determine whether to reinspect the site.

The bill requires the department to use the following criteria in evaluating applications for drilling permits.

- For roads, including road extensions:
 - A permit to drill must be obtained before any road construction or improvement begins;

Ordinances, §58-489; St. Lucie County’s Code of Ordinances, Policy 6.1.5.7; Volusia County’s Code of Ordinances, §50-42; Wakulla County’s Code of Ordinances, §6-34; Walton County’s Code of Ordinances, §9-156.

¹⁰⁰ See Food & Water Watch, *Local Regulations Against Fracking*, <http://www.foodandwaterwatch.org/insight/local-resolutions-against-fracking#florida> (last visited Mar. 14, 2019). The page shows a list of local governments have adopted resolutions against fracking.

- Existing roads must be used where feasible;
- The improvement of existing roads or the construction of new roads must be completed from trucked-in fill material that is taken from approved borrow pits. There may not be any parallel borrow canals along roads;
- All roads must have culverts installed and be maintained to prevent degradation by industry vehicles. The size and number of culverts must be sufficient to ensure that the natural flow of water is not impeded and the resource is protected;
- All roads may be only wide enough to accommodate one lane of traffic, but must have at least one turnout every mile for passing;
- All road elevations must be high enough to assure year round usage, except where otherwise expressly required to be less;
- All roads must follow the best practical route suited to protect the natural environment. Where feasible, roads and road extensions should follow existing wood roads;
- Roads must be constructed in a way that avoids serious damage to or enduring scars to land and loss of wildlife, and must be constructed to avoid obstructing the natural movement of water and wildlife;
- All roads must be restored as specified in Florida Administrative Code Rule 63C-29.009;
- All new access roads authorized to serve the needs of exploration activities must be limited in use to the permitted purpose. For these limited use access roads, the applicant must submit as part of the permit application the means to accomplish the limited use, including the control of unauthorized vehicles, for the duration of the permitted purpose of the road;
- Access corridors and drilling pads may not be constructed in or through sensitive resources, such as cypress or mixed forest swamps, hardwood hammocks, mangrove forests, archaeological sites, native ceremonial grounds, and those zones documented or confirmed by the Fish and Wildlife Conservation Commission as being areas of high-level Florida panther activity *unless reasonable and prudent alternatives are not available*. Known red-cockaded woodpecker colonies, rookeries, alligator holes, research sites, pine uplands, and threatened or endangered species habitats must be avoided *where possible*; and
- Access corridors, including pipelines, must be contiguous where possible and corridors emanating from new entry points must be prohibited unless the applicant demonstrates them to be the more prudent and reasonable alternative.
- For drilling sites:
 - The sites must be located to minimize negative impacts on the vegetation and wildlife, including rare and endangered species, and on the surface water resources;
 - Topographical and engineering surveys of the drilling site, together with an aerial photograph of the drill site, must be prepared at a large scale with the well spotted thereupon and included as a part of the permit application;
 - Site preparation may not begin before the applicant obtains a permit to drill;
 - Every effort shall be made to limit the drilling's impact on the Everglades Protection Area environment by using prairies, limited-growth forest, grazing, farming, or cleared lands *where practical*;
 - Drilling pads must be constructed from trucked-in fill material that is taken from approved borrow pits and be constructed to an elevation sufficient to ensure year-round usage;

- A protective berm of sufficient height and impermeability to prevent the escape of pad fluids shall be constructed around the drilling site and storage tank areas;
- Directional or slant drilling must be used from existing drilling pads where technically feasible and where it will have a beneficial effect upon maintaining environmental quality; and
- All drilling sites must be restored as required by Florida Administrative Code Rule 63C-29.009.
- For production:
 - The operating company must submit to the department a field development plan as soon as practical for each new field;
 - All transportation of oil in the Everglades Protection Area must be by pipeline;
 - If the oil from a producing well is to be removed by pipeline, the pipeline must be equipped with automatic shut-off valves;
 - All flowlines and utilities must be contained within the rights-of-way secured for road construction;
 - The operating company shall develop an emergency and contingency plan. An updated plan must be submitted annually to the department; and
 - The operating company must clean the site of any oil or other contaminants spilled in conjunction with the drilling, production, and transportation activities. Spill response and remediation equipment must remain on site and be made available for immediate use to accomplish this *goal*.

The bill prohibits refining oil in the Everglades Protection Area.

The bill amends s. 377.22, F.S., which requires DEP to adopt oil drilling rules that require a performance bond in a reasonable amount. The bill requires that the bond for drilling in the Everglades Protection Area be a minimum of \$500,000 per well or \$5 million for a blanket bond.

The bill amends s. 377.24, F.S., which provides requirements for granting oil drilling permits exploration and extraction of underground minerals, and which currently requires an applicant to post a good and sufficient performance surety bond. The bill requires that the bond for drilling in the Everglades Protection Area be a minimum of \$500,000 per well or \$5 million for a blanket bond.

The bill amends s. 377.37, F.S., relating to penalties for:

- Any person who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products or to store gas in a natural gas storage facility;
- Any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter; or
- Any person who violates any related rule, regulation, or order of the Division of Resource Management of the Department of Environmental Protection.

The current statute provides that each violator is subject to judicial imposition of a civil penalty in an amount of not more than \$10,000 for each offense. The bill increases the penalty to \$50,000 for offenses occurring in the Everglades Protection Area.

Effective Date

Section 8 provides an effective date of July 1, 2019.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill's provisions on techniques that may be used to increase production or recovery from an oil or gas well and those increasing bonding requirements and penalties for violations when drilling in the Everglades Protection Area may have an indeterminate economic impact.

C. Government Sector Impact:

The department may need to revise its rules, and may incur expenses in doing so.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 377.19, 377.22, 377.244, 377.37, and 570.93.

This bill creates the following sections of the Florida Statutes: 377.2405 and 377.421.

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

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

None.

B. Amendments:

None.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26

Meeting Date

7064

Bill Number (if applicable)

Topic Oil Drilling

Amendment Barcode (if applicable)

Name Jonathan Webber

Job Title Deputy Director

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City

FL

State

32303

Zip

Email JWEBBER@FCVOTERS.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CONSERVATION VOTERS

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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-26-19
Meeting Date

70604
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Brian Lee

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Phone 850 766 7309

Tallahassee FL 32308
City State Zip

Email brian@rethinkenergy
florida.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Floridians Against Fracking

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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

7064

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Kim Ross

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Email admin@rethinkenergyflorida.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing ReThink Energy Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

S.117 1:30
110 503

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

3-26-19

Meeting Date

7064

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

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SARASOTA FL 34243
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Speaking: ☐ For ☒ Against ☐ Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

SB 7064

Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name EDWARD OAKSFORD

Job Title RETIRED

Address 2520 HARRIMAN CIR.

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TALLAHASSEE

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State

32308

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/26/19

Meeting Date

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

7064

Bill Number (if applicable)

Topic Oil drilling

Amendment Barcode (if applicable)

Name Michelle Allen

Job Title Senior Florida Organizer

Address 319 37th St S

Street

St Pete

City

FL

State

33711

Zip

Phone 727-217-5135

Email mallen@fwwatch.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Food & Water Watch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-26-19
Meeting Date

7068
Bill Number (if applicable)

Topic FRACKING / HERBERT

Amendment Barcode (if applicable)

Name THOMAS HERBERT, PhD, PG

Job Title CONSULTANT

Address 546 E. CAVE
Street

Phone 850 443 4262

City TALLAHASSEE State FL Zip 32304

Email toherbert@lamp-herbert.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL INDEPENDENT PET PRODUCERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/26/19

Meeting Date

SB 7064

Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Gladys Delgadillo Del-DA-D-O

Job Title Environmental Policy Specialist

Address 1495 Smith Preserve Way

Phone (239) 262-0304 x 308

Naples
City

FL
State

34102
Zip

Email gladys@conservancy.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Conservancy of Southwest Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3064

Bill Number (if applicable)

Meeting Date

Topic Oil & Gas

Amendment Barcode (if applicable)

Name DAVID MICA

Job Title EXECUTIVE DIRECTOR

Address 215 S MONROE

Phone 561-6300

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email MICAD@API.ORG

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA PETROLEUM COUNCIL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

7064

Bill Number (if applicable)

Meeting Date _____

Topic Fracking

Amendment Barcode (if applicable)

Name Tom Jones

Job Title Senior VP Collier Resources

Address 2550 Goodlette Frank Road

Phone 205-9000

Street

Naples

FL

City

State

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.

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

S-001 (10/14/14)

The Florida Senate COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 7064
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 26, 2019
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Agriculture

575-02911-19

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A bill to be entitled
An act relating to oil drilling; amending s. 377.19,
F.S.; defining the term "fracking"; amending s.
377.22, F.S.; requiring specified amounts for bonds
for certain operations in the Everglades Protection
Area; creating s. 377.2405, F.S.; prohibiting fracking
in this state; providing that permits for drilling or
operating a well do not authorize fracking;
prohibiting the disposal of flowback fluid by deep
well injection or any other below ground method in
this state; defining the term "flowback fluid";
amending s. 377.244, F.S.; requiring an applicant for
certain explorations for and extraction of minerals to
post a specified surety bond for projects in the
Everglades Protection Area; amending s. 377.37, F.S.;
revising civil penalties for certain violations to
require an increased penalty for offenses occurring in
the Everglades Protection Area; creating s. 377.421,
F.S.; defining the term "Everglades Protection Area";
requiring the Department of Environmental Protection
to evaluate drilling applications and visit proposed
access routes and drilling sites in the Everglades
Protection Area for specified purposes; specifying
requirements for such evaluation; requiring a wildlife
impact study for the initial application and
subsequent recertification; prohibiting the refining
of oil within the Everglades Protection Area; amending
s. 570.93, F.S.; prohibiting the use of flowback fluid
for crop irrigation in this state; defining the term

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"flowback fluid"; providing an effective date.

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

Section 1. Present subsections (5) through (32) of section 377.19, Florida Statutes, are redesignated as subsections (6) through (33), respectively, and a new subsection (5) is added to that section, and present subsection (5) of that section is amended, to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and 377.10-377.40, the term:

(5) "Fracking" means all stages of a well intervention performed by injecting large volumes of fluids at a high rate into a rock formation at pressures that exceed the fracture gradient of the rock formation in order to propagate hydraulic fractures. The term does not include other well intervention techniques, including conventional well stimulation or conventional workover procedures; techniques used for routine well cleanout work, well maintenance, or removal of formation damage due to drilling or production; or conventional acidizing techniques used to enhance, maintain, or restore the natural permeability of the formation.

(6) ~~(5)~~ "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (16) ~~(15)~~.

Section 2. Paragraph (f) of subsection (2) of section 377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules

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pursuant to ss. 120.536 and 120.54 to implement and enforce the provisions of this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products, or during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are for, but not limited to, the following purposes:

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon the performance of the duty to plug properly each dry and abandoned well and the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence before ~~prior to~~ such operation. In the Everglades Protection Area, the bond must be for a minimum of \$500,000 per well or, for a blanket bond, for a minimum of \$5 million.

Section 3. Section 377.2405, Florida Statutes, is created to read:

377.2405 Fracking.—Fracking is prohibited in this state. A permit for drilling or operating a well does not authorize fracking. The disposal of flowback fluid by deep well injection or any other below ground method is prohibited in this state. For purposes of this section, the term "flowback fluid" means any liquid that flows back to the surface during or after completion of well stimulation.

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Section 4. Paragraph (b) of subsection (1) of section 377.244, Florida Statutes, is amended to read:

377.244 Conditions for granting permits for surface exploratory and extraction operations.—

(1) Exploration for and extraction of minerals under and by virtue of the authority of a grant of oil, gas, or mineral rights, or which, subsequent to such grant, may be interpreted to include the right to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole, that is by means of surface exploratory and extraction operations such as sifting of the sands, dragline, open pit mining, or other type of surface operation, which would include movement of sands, dirt, rock, or minerals, shall be exercised only pursuant to permit issued by the Division of Resource Management upon applicant complying with the following conditions:

(b) The applicant shall post a good and sufficient surety bond with the division in such amount as the division may determine is adequate to afford full and complete protection for the owner of the surface rights of the lands described in the application, conditioned upon the full and complete restoration, by the applicant, of the area over which the exploratory and extraction operations are conducted to the same condition and contour in existence before ~~prior to~~ such operations. In the Everglades Protection Area, the bond must be for a minimum of \$500,000 per well or, for a blanket bond, for a minimum of \$5 million.

Section 5. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

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377.37 Penalties.—

(1)(a) Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than \$10,000 for each offense, except that for offenses occurring in the Everglades Protection Area the penalty is \$50,000 for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.

Section 6. Section 377.421, Florida Statutes, is created to read:

377.421 Drilling in the Everglades Protection Area.—

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146 (1) For purposes of this section, the term "Everglades
147 Protection Area" means Water Conservation Areas 1, 2A, 2B, 3A,
148 and 3B; the Arthur R. Marshall Loxahatchee National Wildlife
149 Refuge; and the Everglades National Park.

150 (2) The Department of Environmental Protection shall
151 evaluate each application to drill and shall visit each proposed
152 access route and drilling site in the Everglades Protection Area
153 to ensure that the exploration and production activities will
154 not cause any permanent adverse impact on the water resources or
155 the sheet flow of the area or on the vegetation or the wildlife
156 of the area, with a special emphasis placed on rare and
157 endangered species. If a proposed site is located on developed
158 or highly impacted uplands, the department must review the
159 application and field inspection reports from staff to determine
160 whether to reinspect the site. If a reinspection is necessary,
161 subparagraph (3) (a) 1. does not apply.

162 (3) In evaluating applications, the department shall use
163 the following criteria:

164 (a) For roads, including road extensions:

165 1. A permit to drill must be obtained before any road
166 construction or improvement begins.

167 2. Existing roads must be used where feasible.

168 3. The improvement of existing roads or the construction of
169 new roads must be completed from trucked-in fill material that
170 is taken from approved borrow pits. There may not be any
171 parallel borrow canals along roads.

172 4. All roads must have culverts installed and be maintained
173 to prevent degradation by industry vehicles. The size and number
174 of culverts must be sufficient to ensure that the natural flow

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of water is not impeded and the resource is protected.

5. All roads may be only wide enough to accommodate one lane of traffic, but must have at least one turnout every mile for passing.

6. All road elevations must be high enough to assure year-round usage, except where otherwise expressly required to be less.

7. All roads must follow the best practical route suited to protect the natural environment. Where feasible, roads and road extensions should follow existing wood roads.

8. Roads must be constructed in a way that avoids serious damage to or enduring scars to land and loss of wildlife, and must be constructed to avoid obstructing the natural movement of water and wildlife.

9. All roads must be restored as specified in rule 62C-29.009, F.A.C.

10. All new access roads authorized to serve the needs of exploration activities must be limited in use to the permitted purpose. For these limited use access roads, the applicant shall submit as part of the permit application the means to accomplish the limited use, including the control of unauthorized vehicles, for the duration of the permitted purpose of the road.

11. Access corridors and drilling pads may not be constructed in or through sensitive resources, such as cypress or mixed forest swamps, hardwood hammocks, mangrove forests, archaeological sites, native ceremonial grounds, and those zones documented or confirmed by the Fish and Wildlife Conservation Commission as being areas of high-level Florida panther activity unless reasonable and prudent alternatives are not available.

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Known red-cockaded woodpecker colonies, rookeries, alligator holes, research sites, pine uplands, and threatened or endangered species habitats must be avoided where possible.

12. Access corridors, including pipelines, must be contiguous where possible and corridors emanating from new entry points must be prohibited unless the applicant demonstrates them to be the more prudent and reasonable alternative.

(b) For drilling sites:

1. The sites must be located to minimize negative impacts on the vegetation and wildlife, including rare and endangered species, and on the surface water resources.

2. Topographical and engineering surveys of the drilling site, together with an aerial photograph of the drill site, shall be prepared at a large scale with the well spotted thereupon and included as a part of the permit application.

3. Site preparation may not begin before the applicant obtains a permit to drill, except as specified in subsection (2).

4. Every effort shall be made to limit the drilling's impact on the Everglades Protection Area environment by using prairies, limited-growth forest, grazing, farming, or cleared lands where practical.

5. Drilling pads shall be constructed from trucked-in fill material that is taken from approved borrow pits and be constructed to an elevation sufficient to ensure year-round usage.

6. A protective berm of sufficient height and impermeability to prevent the escape of pad fluids shall be constructed around the drilling site and storage tank areas.

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233 7. Directional or slant drilling shall be used from
234 existing drilling pads where technically feasible and where it
235 will have a beneficial effect upon maintaining environmental
236 quality.

237 8. All drilling sites shall be restored as specified in
238 rule 62C-29.009, Florida Administrative Code.

239 (c) For production:

240 1. The operating company shall submit to the department a
241 field development plan as soon as practical for each new field.
242 All transportation of oil in the Everglades Protection Area
243 shall be by pipeline.

244 2. If the oil from a producing well is to be removed by
245 pipeline, the pipeline must be equipped with automatic shut-off
246 valves.

247 3. All flowlines and utilities shall be contained within
248 the rights-of-way secured for road construction.

249 4. The operating company shall develop an emergency and
250 contingency plan. An updated plan must be submitted annually to
251 the department.

252 5. The operating company shall clean the site of any oil or
253 other contaminants spilled in conjunction with the drilling,
254 production, and transportation activities. Spill response and
255 remediation equipment must remain on site and be made available
256 for immediate use to accomplish this goal.

257 (4) Within the Everglades Protection Area, a wildlife
258 impact study must be completed at the time of the initial
259 application and at the time of subsequent recertification.

260 (5) The refining of oil is prohibited in the Everglades
261 Protection Area.

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Section 7. Subsection (3) is added to section 570.93,
Florida Statutes, to read:

570.93 Department of Agriculture and Consumer Services;
agricultural water conservation and agricultural water supply
planning.—

(3) The use of flowback fluid for crop irrigation is
prohibited in this state. For purposes of this subsection, the
term "flowback fluid" means any liquid that flows back to the
surface during or after completion of well stimulation.

Section 8. This act shall take effect July 1, 2019.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: SB 824

INTRODUCER: Senator Diaz

SUBJECT: Private Property Rights of Homeowners

DATE: March 25, 2019

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Pre-meeting</u>
2. _____	_____	<u>CA</u>	_____
3. _____	_____	<u>AP</u>	_____

I. Summary:

SB 824 preempts the regulation of all vacation rentals to the state, including, but not limited to, the inspection and licensing of vacation rentals. Under the bill, a local government may regulate activities that arise when a property is used as a vacation rental, provided the regulation applies uniformly to all residential properties.

Current law prohibits local governments from prohibiting vacation rentals, or regulating the duration or frequency of rental of vacation rentals. Additionally, under current law, a local law, ordinance, or regulation adopted on or before June 1, 2011, is also not subject to this prohibition.

The bill expands the current prohibition against a local law, ordinance, or regulation that prohibits or regulates the duration or frequency of vacation rentals to also prohibit local governments from imposing occupancy limits. The bill repeals the exemption for a local law, ordinance, or regulation adopted before June 1, 2011.

The bill requires a vacation rental license applicant to provide the name, address, phone number and email address of a contact person the division may notify when a complaint is received. The division must make vacation rental license information, including the contact person, available to the public on the division's website.

The effective date of the bill is July 1, 2019.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (DBPR) is the state agency charged with enforcing the provisions of ch. 509, F.S., relating to the regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare.

The term “public lodging establishments” includes transient and nontransient public lodging establishments.¹ The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are rented in a calendar year and the length of the rentals.

A “transient public lodging establishment” is defined in s. 509.013(4)(a)1., F.S., as:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

A “nontransient public lodging establishment” is defined in s. 509.013(4)(a)2., F.S., as:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;
6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;
7. Any nonprofit organization that operates a facility providing housing only to patients, patients’ families, and patients’ caregivers and not to the general public.

¹ Section 509.013(4)(a), F.S.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and
9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.²

A “vacation rental” is defined in s. 509.242(1)(c), F.S., as:

any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

The department licenses vacation rentals as condominiums, dwellings, or timeshare projects.³ The division may issue a vacation rental license for “a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively.”⁴

The 41,931 public lodging establishments licensed by the division are distributed as follows:⁵

- Hotels – 1,980 licenses;
- Motels – 2,556 licenses;
- Nontransient apartments – 18,260 licenses;
- Transient apartments – 920 licenses;
- Bed and Breakfast Inns – 260 licenses;
- Vacation rental condominiums – 6,032 licenses;
- Vacation rental dwellings – 14,874 licenses; and
- Vacation rental timeshare projects – 21 licenses.

² Section 509.242(1), F.S.

³ Fla. Admin. Code R. 61C-1.002(4)(a)1.

⁴ The division further classifies a vacation rental license as a single, group, or collective license. See Fla. Admin. Code R. 61C-1.002(4)(a)1. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations not to exceed 75 houses per license.

⁵ *Division of Hotels and Restaurants Annual Report for FY 2017-2018*, Department of Business and Professional Regulation, at page 8. A copy of the report is available at: http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2017_18.pdf (Last visited Mar. 20, 2019).

Inspections of Vacation Rentals

The division must inspect each licensed public lodging establishment at least biannually, but transient and nontransient apartments must be inspected at least annually. However, the division is not required to inspect vacation rentals, but vacation rentals must be available for inspection upon a request by the division.⁶ The division conducts inspections of vacation rentals in response to a consumer complaint. In Fiscal Year 2017-2018, the division received 244 consumer complaints regarding vacation rentals. In response to the complaints, the division inspected 108 vacation rentals and confirmed a violation for 23 of the complaints.⁷

The division's inspection of vacation rentals includes matters of safety (for example, fire hazards, smoke detectors, and boiler safety), sanitation (for example, safe water sources, bedding, and vermin control), consumer protection (for example, unethical business practices, compliance with the Florida Clean Air Act, and maintenance of a guest register), and other general safety and regulatory matters.⁸

The division must notify the local firesafety authority or the State Fire Marshal of any readily observable violation of a rule adopted under ch. 633, F.S.,⁹ which relates to a public lodging establishment.¹⁰

Additionally, an applicant for a vacation rental license is required to submit with the license application a signed certificate evidencing the inspection of all balconies, platforms, stairways, railings, and railways, from a person competent to conduct such inspections.¹¹

Preemption

Section 509.032(7)(a), F.S., provides that “the regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state.”

⁶ Section 509.032(2)(a), F.S.

⁷ See *supra* note 5, at page 25. Regarding the division's response to complaints did not lead to an inspection, the agency may have made follow-up phone calls, sent letters or e-mails, or referred the complaint to another agencies. The data in the report may also reflect open investigations.

⁸ See ss. 509.211 and 509.221, F.S., for the safety and sanitary regulations, respectively. See also Fla. Admin. Code R. 61C-1.002; *Lodging Inspection Report, DBPR Form HR 5022-014*, which details the safety and sanitation matters addressed in the course of an inspection. A copy of the Lodging Inspection Report is available at:

<https://www.flrules.org/Gateway/reference.asp?No=Ref-07062> (last visited Mar. 20, 2019).

⁹ Chapter 633, F.S., relates to fire prevention and control, including the duties of the State Fire Marshal and the adoption of the Florida Fire Prevention Code.

¹⁰ Section 509.032(2)(d), F.S.

¹¹ See ss. 509.211(3) and 509.2112, F.S., and form *DBPR HR-7020, Division of Hotels and Restaurants Certificate of Balcony Inspection*, available at:

https://www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1030&clientCode=2007&XACT_DEFN_ID=7694 (last visited Mar. 20, 2019).

Current law does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206, F.S.¹²

Section 509.032(7)(b), F.S., prohibits local laws, ordinances, or regulations that prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. However, this prohibition does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

Section 509.032(7)(c), F.S., provides that the prohibition in s. 509.032(7)(b), F.S., does not apply to local laws, ordinances, or regulations exclusively relating to property valuation as a criterion for vacation rental if the law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.¹³

Legislative History

In 2011, the Legislature preempted certain vacation rental regulation to the state. The preemption prevented local governments from enacting any law, ordinance, or regulation that:

- Restricted the use of vacation rentals;
- Prohibited vacation rentals; or
- Regulated vacation rentals based solely on their classification, use, or occupancy.¹⁴

This legislation grandfathered any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011.¹⁵

In 2014, the Legislature revised the preemption to its current form with an effective date of July 1, 2014.¹⁶ Chapter 2014-71, Laws of Fla., amended s. 509.032(7)(b), F.S., and repealed the portions of the preemption of local laws, ordinances, and regulations which prohibited “restrict[ing] the use of vacation rentals” and which prohibited regulating vacation rentals “based solely on their classification, use or occupancy.”¹⁷

Attorney General Opinions

The office of the Attorney General issued an Informal Legal Opinion on October 22, 2013, regarding whether Flagler County could intercede and stop vacation rental operations in private homes that were zoned, prior to June 1, 2011, for single-family residential use.¹⁸ According to the opinion, “due to an increase in the number of homes being used as vacation rentals in Flagler County, many permanent residents in neighborhoods with vacation rentals have raised concerns about the negative effects such rentals have on their quality of life and the character of their

¹² Section 509.032(7)(a), F.S.

¹³ See s. 163.3164(43), F.S., provides that the state land planning agency is the Department of Economic Opportunity.

¹⁴ Chapter 2011-119, Laws of Fla.

¹⁵ *Id.*

¹⁶ Chapter 2014-71, Laws of Fla.; codified in s. 509.032(7)(b), F.S.

¹⁷ *Id.*

¹⁸ Florida Attorney General, Informal Legal Opinion to Mr. Albert Hadeed, Flagler County Attorney, regarding “Vacation Rental Operation-Local Ordinances,” dated October 22, 2013.

neighborhood.” Flagler County had no regulation governing vacation rentals before the grandfather date of June 1, 2011, in s. 509.032(7)(b), F.S. The Attorney General concluded that the county’s local zoning ordinance for single-family homes that predated June 1, 2011, did not restrict the rental of such property as a vacation rental and that the zoning ordinances could not now be interpreted to restrict vacation rentals.

A second advisory opinion was issued by the Attorney General on November 13, 2014, for the City of Wilton Manors concluding that s. 509.032(7)(b), F.S., does not permit the city to regulate the location of vacation rentals through zoning, and the city may not prohibit vacation rentals that fail to comply with the registration and licensing requirements in s. 509.241, F.S., which requires public lodging establishments to obtain a license from the division.¹⁹

In addition, the Attorney General issued a third advisory opinion on October 5, 2016, addressing whether a municipality could limit the spacing and concentration of vacation rentals through a proposed ordinance regarding vacation rentals.²⁰ The Attorney General concluded that the preemption in s. 509.032, F.S., allows local governments some regulation of vacation rentals, but prevents local governments from prohibiting vacation rentals. Consequently, the Attorney General noted that a municipality may not impose spacing or proportional regulations that would have the effect of preventing eligible housing from being used as a vacation rental.²¹

III. Effect of Proposed Changes:

The bill amends s. 509.032(7), F.S., to preempt the regulation of all vacation rentals to the state.

Section 509.032(7)(b)1., F.S., provides legislative findings, including the finding that vacation rentals play a significant, unique, and critical role in Florida’s tourism industry, a role that is different from other types of public lodging establishments.

Section 509.032(7)(b)2., F.S., provides that the regulation of vacation rentals, including, but not limited to, inspection, licensing, and occupancy limits, is expressly preempted to the state.

The bill:

- Prohibits a local government from licensing or inspecting vacation rentals.
- Allows a local government to regulate activities that arise when a property is used as a vacation rental, if the regulation applies uniformly to all residential properties.
- Repeals the exemption for a local law, ordinance, or regulation adopted before June 1, 2011.
- Expands the prohibition against a local law, ordinance, or regulation that prohibits or regulates the duration or frequency of vacation rentals to also prohibit local governments from imposing occupancy limits.

Additionally, the bill provides that, if a local law, ordinance or regulation is challenged in a court, the political subdivision that enacted the local law, ordinance or regulation at issue must

¹⁹ Florida Attorney General, AGO 2014-09, Vacation Rentals - Municipalities - Land Use, November 13, 2014, available at: <http://www.myfloridalegal.com/ago.nsf/printview/5DFB7F27FB483C4685257D900050D65E> (last visited Mar. 20, 2019).

²⁰ Florida Attorney General, AGO 2016-12, Municipalities - Vacation Rentals - Zoning, October 5, 2016, available at: <http://www.myfloridalegal.com/ago.nsf/printview/3AF7050D48068C10852580440051386C> (last visited Mar. 20, 2019).

²¹ *Id.*

establish by clear and convincing evidence²² that the challenged local law, ordinance, or regulation does not violate preemption of such regulation to the state.

The bill amends s. 509.241(2), F.S., relating to the license application process for public lodging establishments, to require a vacation rental license applicant to provide the name, address, telephone number, and email address of a contact person the division may notify when a complaint is received. The division must make vacation rental license information, including the associated contact person, available to the public on the division's website.

The effective date of the bill is July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, a property owner currently subject to a local vacation licensing or registration requirement and related fee, may not be required to pay any such fee.

²² The standard of proof is the level of evidence a person needs to prove in order to prevail on their claim. In most civil cases the standard is "preponderance of the evidence," in which a particular fact of event is more likely to have occurred than not to have occurred. "Clear and convincing evidence" is a higher standard that requires proof that the fact or event has a high probability that the fact or event occurred. See <https://www.justia.com/trials-litigation/evidentiary-standards-burdens-proof/> (last visited March 24, 2019).

C. Government Sector Impact:

A local government may have an indeterminate decrease of revenue if the local government currently requires a vacation rental license or registration fee. Under the bill, a local government may not require a vacation rental to register or obtain such a license.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires an applicant for a vacation rental license to provide the division with the name, address, telephone number and email address of a contact person. It is not clear if this requirement applies to initial license applicants and license renewals. Currently, the license renewal process only requires the renewal applicant to pay a renewal fee. According to the division, if the contact information is required, the division will need to give licensees notice of the additional requirement and instructions on how to provide the information. The division also expressed the concern that the collection of deficient contact person information may delay the approval of new applications and renewals.²³

The division also notes that the bill does not provide specific rulemaking authority in the event the agency determines that rulemaking is necessary to implement the provisions of the bill.²⁴

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.032 and 509.241.

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.

²³ See Department of Business and Professional Regulation, *2019 Agency Legislative Bill Analysis for SB 824*, dated Feb. 26, 2019 (on file with Senate Committee on Innovation, Industry, and Technology) at page 5.

²⁴ *Id.*



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LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Diaz)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 509.013, Florida Statutes, is reordered
and amended to read:

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

(1) "Advertising platform" means an online application,
software, website, system, or print advertisement through which
a transient public lodging establishment located in this state



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is advertised or held out to the public as available to rent for transient occupancy. The term does not include the multiple listing service or an online or print advertisement of a transient public lodging establishment by a real estate broker or sales associate licensed under chapter 475.

(3)~~(1)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(8)~~(2)~~ "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

(4)~~(3)~~ "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.

(10) (a)~~(4)~~~~(a)~~ "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for less than 30 days or 1 calendar month. The term includes a unit that is advertised for rent by an advertising platform.

2. "Nontransient public lodging establishment" means any



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unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are excluded from the definitions in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.

2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072.

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a



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place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.

6. Any establishment inspected by the Department of Health and regulated by chapter 513.

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

(9) (a) ~~(5) (a)~~ "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for



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consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(b) The following are excluded from the definition in paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

Upon request by the division, the event host must provide the



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division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(2)(6) "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and



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Professional Regulation.

(11)~~(7)~~ "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

(12)~~(8)~~ "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(13)~~(9)~~ "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(14)~~(10)~~ "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

(16)~~(11)~~ "Transient establishment" means a ~~any~~ public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(17)~~(12)~~ "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(15)~~(13)~~ "Transient" means a guest in transient occupancy.



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~~(6)-(14)~~ "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

~~(7)-(15)~~ "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

~~(5)-(16)~~ "Nontransient" means a guest in nontransient occupancy.

Section 2. Effective upon this act becoming a law, subsection (7) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(a) Advertising platforms, public lodging establishments, and public food service establishments.—The regulation of advertising platforms, public lodging establishments, and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.



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(b) Vacation rentals.—

1. The Legislature finds that:

a. Property owners who choose to use their property as a vacation rental have constitutionally protected property rights and other rights that must be protected, including the right to use their residential property as a vacation rental;

b. Vacation rentals play a significant, unique, and critical role in Florida's tourism industry, and that role is different from other types of public lodging establishments;

c. There are factors unique to the ownership and operation of a vacation rental; and

d. Vacation rentals are residential in nature, a residential use and thus are allowed in residential neighborhoods.

2. Except as provided under this paragraph, the regulation of vacation rentals, including, but not limited to, inspection, licensure, and occupancy limits, is expressly preempted to the state.

3. A local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental if the law, ordinance, or regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s. 509.242, the property is used as a long-term rental subject to chapter 83, or the property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit ~~vacation~~ rentals, impose occupancy limits, or regulate the duration or frequency of ~~rental of vacation~~ rentals.

4. A local law, ordinance, or regulation may not allow or



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require the inspection or licensing of vacation rentals.

5. A court of law shall determine if a local law, ordinance, or regulation complies with this section without regard to any assertion in the local law, ordinance, or regulation that it complies. In all actions brought pursuant to this section, the political subdivision that enacted the local law, ordinance, or regulation shall establish by clear and convincing evidence that the local law, ordinance, or regulation complies with this section ~~This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.~~

6. ~~(e)~~ This paragraph ~~(b)~~ does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

Section 3. Subsections (2) and (3) of section 509.241, Florida Statutes, are amended to read:

509.241 Licenses required; exceptions.—

(2) APPLICATION FOR LICENSE.—

(a) Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division prior to the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license.



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(b) Each person applying for a vacation rental license shall provide the name, address, telephone number, and e-mail address of the person the division may contact when a complaint related to a vacation rental is reported. The division shall make vacation rental license information, including the contact person, available to the public on the division's website.

(3) DISPLAY OF LICENSE.—Any license issued by the division ~~must shall~~ be conspicuously displayed to the public inside of in the ~~office or lobby of the~~ licensed establishment. Public food service establishments that which offer catering services must shall display their license number on all advertising for catering services. The operator of a vacation rental or a unit in a transient or nontransient apartment that is offered for transient occupancy shall display its license number in all advertising for such rentals.

Section 4. Paragraph (c) of subsection (1) of section 509.242, Florida Statutes, is amended to read:

509.242 Public lodging establishments; classifications.—

(1) A public lodging establishment shall be classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental if the establishment satisfies the following criteria:

(c) *Vacation rental.*—A vacation rental is a any unit or group of units in a condominium or cooperative or in an any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit which that is ~~also~~ a transient public lodging establishment but ~~that is~~ not a timeshare project.

Section 5. Section 509.243, Florida Statutes, is created to



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read:

509.243 Advertising platforms.—

(1) An advertising platform may facilitate a booking transaction for a transient guest's rental of a transient public lodging establishment located in this state if the advertising platform is registered with the division. The division shall issue a registration to each person who meets the requirements of this section and the rules adopted hereunder.

(2) An advertising platform shall:

(a) Designate and maintain on file with the division an agent for service of process in this state;

(b) Disclose in its terms and conditions the reporting requirements of s. 509.101(2); and

(c) Take down an offending advertisement or listing from its online application, software, website, or system within 30 business days after being notified by the division in writing that the advertisement or listing for the rental of a transient public lodging establishment located in this state fails to display a valid license number issued by the division.

(3) A person who has operated or is operating in violation of this section or the rules of the division may be subject by the division to fines of up to \$250 per offense, not to exceed \$5,000 in the aggregate.

Section 6. Subsection (12) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(12) "Public lodging or restaurant facility" means property



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used for any public lodging establishment as defined in s.
509.242 or public food service establishment as defined in s.
509.013 ~~s. 509.013(5)~~ if it is part of the complex of, or
necessary to, another facility qualifying under this part.

Section 7. Paragraph (jj) of subsection (7) of section
212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and
storage tax; specified exemptions.—The sale at retail, the
rental, the use, the consumption, the distribution, and the
storage to be used or consumed in this state of the following
are hereby specifically exempt from the tax imposed by this
chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
entity by this chapter do not inure to any transaction that is
otherwise taxable under this chapter when payment is made by a
representative or employee of the entity by any means,
including, but not limited to, cash, check, or credit card, even
when that representative or employee is subsequently reimbursed
by the entity. In addition, exemptions provided to any entity by
this subsection do not inure to any transaction that is
otherwise taxable under this chapter unless the entity has
obtained a sales tax exemption certificate from the department
or the entity obtains or provides other documentation as
required by the department. Eligible purchases or leases made
with such a certificate must be in strict compliance with this
subsection and departmental rules, and any person who makes an
exempt purchase with a certificate that is not in strict
compliance with this subsection and the rules is liable for and
shall pay the tax. The department may adopt rules to administer



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this subsection.

(jj) *Complimentary meals.*—Also exempt from the tax imposed by this chapter are food or drinks that are furnished as part of a packaged room rate by any person offering for rent or lease any transient living accommodations as described in s.

509.013(10) (a) ~~s. 509.013(4) (a)~~ which are licensed under part I of chapter 509 and which are subject to the tax under s. 212.03, if a separate charge or specific amount for the food or drinks is not shown. Such food or drinks are considered to be sold at retail as part of the total charge for the transient living accommodations. Moreover, the person offering the accommodations is not considered to be the consumer of items purchased in furnishing such food or drinks and may purchase those items under conditions of a sale for resale.

Section 8. Paragraph (b) of subsection (4) of section 316.1955, Florida Statutes, is amended to read:

316.1955 Enforcement of parking requirements for persons who have disabilities.—

(4)

(b) Notwithstanding paragraph (a), a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ which provides parking in designated areas for persons who have disabilities may allow any vehicle that is transporting a person who has a disability to remain parked in a space reserved for persons who have disabilities throughout the period the theme park is open to the public for that day.

Section 9. Subsection (5) of section 404.056, Florida Statutes, is amended to read:

404.056 Environmental radiation standards and projects;



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certification of persons performing measurement or mitigation services; mandatory testing; notification on real estate documents; rules.—

(5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification shall be provided on at least one document, form, or application executed at the time of, or prior to, contract for sale and purchase of any building or execution of a rental agreement for any building. Such notification shall contain the following language:

"RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

The requirements of this subsection do not apply to any residential transient occupancy, as described in s. 509.013 ~~s. 509.013(12)~~, provided that such occupancy is 45 days or less in duration.

Section 10. Subsection (6) of section 477.0135, Florida Statutes, is amended to read:

477.0135 Exemptions.—

(6) A license is not required of any individual providing makeup or special effects services in a theme park or entertainment complex to an actor, stunt person, musician, extra, or other talent, or providing makeup or special effects



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services to the general public. The term "theme park or entertainment complex" has the same meaning as in s. 509.013 ~~s. 509.013(9)~~.

Section 11. Paragraph (c) of subsection (3) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013(9)(b) ~~s.~~



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~~509.013(5)(b)~~, a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

Section 12. Paragraph (b) of subsection (2) of section 509.221, Florida Statutes, is amended to read:

509.221 Sanitary regulations.—

(2)

(b) Within a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not required to be in the same building as the public food service establishment, so long as they are reasonably accessible.

Section 13. Paragraph (b) of subsection (5) of section 553.5041, Florida Statutes, is amended to read:

553.5041 Parking spaces for persons who have disabilities.—

(5) Accessible perpendicular and diagonal accessible parking spaces and loading zones must be designed and located to conform to ss. 502 and 503 of the standards.

(b) If there are multiple entrances or multiple retail



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stores, the parking spaces must be dispersed to provide parking at the nearest accessible entrance. If a theme park or an entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~ provides parking in several lots or areas from which access to the theme park or entertainment complex is provided, a single lot or area may be designated for parking by persons who have disabilities, if the lot or area is located on the shortest accessible route to an accessible entrance to the theme park or entertainment complex or to transportation to such an accessible entrance.

Section 14. Section 717.1355, Florida Statutes, is amended to read:

717.1355 Theme park and entertainment complex tickets.—This chapter does not apply to any tickets for admission to a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~, or to any tickets to a permanent exhibition or recreational activity within such theme park or entertainment complex.

Section 15. Subsection (8) of section 877.24, Florida Statutes, is amended to read:

877.24 Nonapplication of s. 877.22.—Section 877.22 does not apply to a minor who is:

(8) Attending an organized event held at and sponsored by a theme park or entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~.

Section 16. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 196.199, Florida Statutes, is reenacted to read:



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196.199 Government property exemption.—

(1) Property owned and used by the following governmental units shall be exempt from taxation under the following conditions:

(a)1. All property of the United States is exempt from ad valorem taxation, except such property as is subject to tax by this state or any political subdivision thereof or any municipality under any law of the United States.

2. Notwithstanding any other provision of law, for purposes of the exemption from ad valorem taxation provided in subparagraph 1., property of the United States includes any leasehold interest of and improvements affixed to land owned by the United States, any branch of the United States Armed Forces, or any agency or quasi-governmental agency of the United States if the leasehold interest and improvements are acquired or constructed and used pursuant to the federal Military Housing Privatization Initiative of 1996, 10 U.S.C. ss. 2871 et seq. As used in this subparagraph, the term "improvements" includes actual housing units and any facilities that are directly related to such housing units, including any housing maintenance facilities, housing rental and management offices, parks and community centers, and recreational facilities. Any leasehold interest and improvements described in this subparagraph, regardless of whether title is held by the United States, shall be construed as being owned by the United States, the applicable branch of the United States Armed Forces, or the applicable agency or quasi-governmental agency of the United States and are exempt from ad valorem taxation without the necessity of an application for exemption being filed or approved by the property appraiser.



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This subparagraph does not apply to a transient public lodging establishment as defined in s. 509.013 and does not affect any existing agreement to provide municipal services by a municipality or county.

Section 17. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is reenacted to read:

212.031 Tax on rental or license fee for use of real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such



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streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually



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imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-



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subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space



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flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

13. Rented, leased, subleased, or licensed to a person providing telecommunications, data systems management, or Internet services at a publicly or privately owned convention hall, civic center, or meeting space at a public lodging establishment as defined in s. 509.013. This subparagraph applies only to that portion of the rental, lease, or license payment that is based upon a percentage of sales, revenue sharing, or royalty payments and not based upon a fixed price. This subparagraph is intended to be clarifying and remedial in nature and shall apply retroactively. This subparagraph does not provide a basis for an assessment of any tax not paid, or create



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a right to a refund of any tax paid, pursuant to this section before July 1, 2010.

Section 18. For the purpose of incorporating the amendment made by this act to section 509.013, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 413.08, Florida Statutes, is reenacted to read:

413.08 Rights and responsibilities of an individual with a disability; use of a service animal; prohibited discrimination in public employment, public accommodations, and housing accommodations; penalties.—

(1) As used in this section and s. 413.081, the term:

(c) "Public accommodation" means a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation; hotel; a timeshare that is a transient public lodging establishment as defined in s. 509.013; lodging place; place of public accommodation, amusement, or resort; and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. The term does not include air carriers covered by the Air Carrier Access Act of 1986, 49 U.S.C. s. 41705, and by regulations adopted by the United States Department of Transportation to implement such act.

Section 19. For the purpose of incorporating the amendment made by this act to section 509.242, Florida Statutes, in a reference thereto, subsection (9) of section 509.221, Florida Statutes, is reenacted to read:

509.221 Sanitary regulations.—

(9) Subsections (2), (5), and (6) do not apply to any



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facility or unit classified as a vacation rental, nontransient apartment, or timeshare project as described in s. 509.242(1)(c), (d), and (g).

Section 20. The Legislature does not intend for the application of this act to supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes, cooperative documents adopted pursuant to chapter 719, Florida Statutes, or declaration of covenants or declaration adopted pursuant to chapter 720, Florida Statutes.

Section 21. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 22. Except as otherwise expressly provided in this act, and except for this section and section 20 of this act, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2020.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to vacation rentals; amending s.
509.013, F.S.; defining and redefining terms; amending
s. 509.032, F.S.; preempting the regulation of



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advertising platforms and vacation rentals to the state; providing an exception; providing legislative findings; requiring a court of law to determine compliance with specified provisions; amending s. 509.241, F.S.; requiring each person applying for a vacation rental license to provide the Division of Hotels and Restaurants of the Department of Business and Professional Regulation with specified information; requiring the division to make vacation rental license information available to the public on the division's website; requiring licenses issued by the division to be displayed conspicuously to the public; requiring the operator of a vacation rental or specified public lodging establishment to display its license number in advertisements; amending s. 509.242, F.S.; revising the criteria for a public lodging establishment to be classified as a vacation rental; creating s. 509.243, F.S.; authorizing an advertising platform to facilitate booking transactions under certain circumstances; requiring an advertising platform to designate and maintain on file with the division an agent for service of process in this state, disclose certain reporting requirements in its terms and conditions, and remove a listing under certain circumstances; providing penalties; amending ss. 159.27, 212.08, 316.1955, 404.056, 477.0135, 509.032, 509.221, 553.5041, 717.1355, and 877.24, F.S.; conforming cross-references; reenacting ss. 196.199(1)(a), 212.031(1)(a), and 413.08(1)(c),



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relating to government property exemption, tax on
rental or license fee for use of real property, and
prohibited discrimination in public employment, public
accommodations, and housing accommodations,
respectively, to incorporate the amendments made to s.
509.013, F.S., in references thereto; reenacting s.
509.221(9), F.S., relating to sanitary regulations, to
incorporate the amendment made to s. 509.242, F.S., in
a reference thereto; providing applicability;
providing severability; providing effective dates.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Diaz)
recommended the following:

Senate Amendment to Amendment (586172)

Delete lines 8 - 203

and insert:

(1) "Advertising platform" means a person who provides an
online application, software, website, system, or print
advertisement through which a transient public lodging
establishment located in this state is advertised or held out to
the public as available to rent for transient occupancy. The
term does not include the multiple listing service or an online



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or print advertisement of a transient public lodging establishment by a real estate broker or sales associate licensed under chapter 475; however, a real estate broker or sales associate licensed under chapter 475 must comply with s. 509.243(2)(c) and (3).

(3)~~(1)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(8)~~(2)~~ "Operator" means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.

(4)~~(3)~~ "Guest" means any patron, customer, tenant, lodger, boarder, or occupant of a public lodging establishment or public food service establishment.

(10)(a)~~(4)(a)~~ "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for less than 30 days or 1 calendar month. The term includes a unit that is advertised for rent by an advertising platform.

2. "Nontransient public lodging establishment" means any



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unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are excluded from the definitions in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors.

2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072.

3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients.

4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a



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place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent.

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895.

6. Any establishment inspected by the Department of Health and regulated by chapter 513.

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public.

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement.

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242.

(9) (a) ~~(5) (a)~~ "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for



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consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(b) The following are excluded from the definition in paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Upon request by the division, a church or a religious, nonprofit fraternal, or nonprofit civic organization claiming an exclusion under this subparagraph must provide the division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

3. Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting from 1 to 3 days which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

Upon request by the division, the event host must provide the



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division documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization.

4. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

5. Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072.

6. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12.

7. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.

8. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

9. Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.

10. Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072.

11. Any research and development test kitchen limited to the use of employees and which is not open to the general public.

(2)(6) "Director" means the Director of the Division of Hotels and Restaurants of the Department of Business and



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Professional Regulation.

(11)~~(7)~~ "Single complex of buildings" means all buildings or structures that are owned, managed, controlled, or operated under one business name and are situated on the same tract or plot of land that is not separated by a public street or highway.

(12)~~(8)~~ "Temporary food service event" means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.

(13)~~(9)~~ "Theme park or entertainment complex" means a complex comprised of at least 25 contiguous acres owned and controlled by the same business entity and which contains permanent exhibitions and a variety of recreational activities and has a minimum of 1 million visitors annually.

(14)~~(10)~~ "Third-party provider" means, for purposes of s. 509.049, any provider of an approved food safety training program that provides training or such a training program to a public food service establishment that is not under common ownership or control with the provider.

(16)~~(11)~~ "Transient establishment" means a ~~any~~ public lodging establishment that is rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(17)~~(12)~~ "Transient occupancy" means occupancy when it is the intention of the parties that the occupancy will be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

(15)~~(13)~~ "Transient" means a guest in transient occupancy.



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(6)~~(14)~~ "Nontransient establishment" means any public lodging establishment that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole residence of the guest.

(7)~~(15)~~ "Nontransient occupancy" means occupancy when it is the intention of the parties that the occupancy will not be temporary. There is a rebuttable presumption that, when the dwelling unit occupied is the sole residence of the guest, the occupancy is nontransient.

(5)~~(16)~~ "Nontransient" means a guest in nontransient occupancy.

Section 2. Effective upon this act becoming a law, subsection (7) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(a) Advertising platforms, public lodging establishments and public food service establishments.—The regulation of advertising platforms is preempted to the state. The regulation of public lodging establishments and public



The Florida Senate

Committee Agenda Request

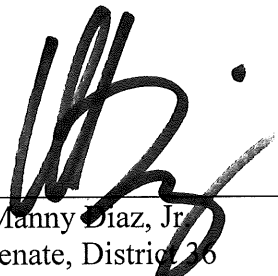
To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: February 19, 2019

I respectfully request that **Senate Bill # 824**, relating to Private Property Rights of Homeowners, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.



Senator Manny Diaz, Jr.
Florida Senate, District 26



ANALYSIS

2019 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 824</u>
BILL TITLE:	<u>Private Property Rights of Homeowners</u>
BILL SPONSOR:	<u>Sen. Diaz</u>
EFFECTIVE DATE:	<u>7/1/19</u>

COMMITTEES OF REFERENCE

1) Innovation, Industry, & Technology
2) Community Affairs
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

N/A

SIMILAR BILLS

BILL NUMBER:	SB 812 (compare); and HB 987 (similar)
SPONSOR:	Sen. Simmons; and Rep. Grant (J)

PREVIOUS LEGISLATION

BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

IDENTICAL BILLS

BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 26, 2019
LEAD AGENCY ANALYST:	Cindy Ross, Hotels & Restaurants
ADDITIONAL ANALYST(S):	Marc Drexler, OGC H&R Tracy Dixon, Service Operations Thomas Izzo, OGC Rules

	Tom Coker, Technology
LEGAL ANALYST:	Robin E. Smith, Deputy General Counsel
FISCAL ANALYST:	Raleigh Close, AFM

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill relates to the private property rights of homeowners. The bill amends s. 509.032, F.S. requiring each vacation rental applicant to provide specified information to the Division of Hotels & Restaurants (division). The division must make the information public on the division's website. The bill provides an effective date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Regulation of vacation rentals is preempted to the state under s. 509.032(7), F.S. Local governments maintain authority to inspect for compliance with the Florida Building Code and Florida Fire Prevention Code pursuant to ss. 553.80 and 633.206, F.S. Local governments may not prohibit vacation rentals or regulate the duration or frequency of vacation rentals unless the ordinance was adopted on or before June 1, 2011.

2. EFFECT OF THE BILL:

The bill sets forth the legislative finding that property owners have rights, including the right to use their residence as a vacation rental. The bill also sets forth the legislative findings that vacation rentals are not like other public lodging establishments, are unique in ownership and operation, and are permissible in residential neighborhoods due to their residential nature.

The bill specifies that the regulation of vacation rentals, with some exceptions, is preempted to the state. Although vacation rental inspection, licensing, and occupancy limits are expressly preempted to the state, a local law, ordinance or regulation may regulate certain activities of vacation rentals if the regulation applies equally to all properties without regard to whether the property is being used as a vacation rental, as a long-term rental, or as a non-rental. Additionally, a local law, ordinance or regulation may not prohibit rentals, impose occupancy limits, or regulate the length or frequency of rentals. If challenged in a court of law, the political subdivision that enacted a local law, ordinance or regulation must establish by clear and convincing evidence that the local law, ordinance or regulation does not violate preemption. The bill strikes language providing that this paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

The bill provides that each vacation rental applicant must provide the name, address, phone number and email address of a contact person the division may notify when a complaint is received. The division must make the vacation rental license information, including the contact person available to the public on the division's website.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	N/A
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?

Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The bill will require modifications to Versa: Regulation and Versa: Online configuration to accommodate the provision for contact person information in Section 2. It will require additional work effort to modify the license listing to include contact person on the department's Instant Public Records website.</p> <ul style="list-style-type: none"> • Changes to Versa: Regulation – 16 hours • Changes to Versa: Online – 4 hours • Changes to Instant Public Records – 2 hours <p>These modifications can be made with existing resources.</p>
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?

Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	N/A
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ADDITIONAL COMMENTS

Division of Hotels & Restaurants: It is unclear whether the requirement to provide the division with the name, address, phone number and email address of a contact person only applies to initial applicants or to both initial applicants and license renewals. Either way, the division will need to add this information to the applications, to Versa Regulation and to the transactions online that licensees can access and update themselves. As the existing renewal process only requires payment from the applicant, if the additional information is also required, notification of the additional requirement and instructions on the method to provide the information will need to be given to the applicants. Using the existing renewal system, the renewal applicant will need the ability to provide this information online themselves. The collection of deficient contact person information may delay the approval of new applications and renewals. This can be accomplished with existing resources. This delay is projected to result in additional calls to the call center.

Division of Service Operations: There will be an impact to the division; however, the additional workload can be absorbed with existing resources.

OGC Rules: The bill does not provide any specific rulemaking authority in regard to the subject matter if promulgation of rulemaking is determined to be necessary.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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By Senator Diaz

36-00965A-19

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A bill to be entitled
An act relating to private property rights of
homeowners; amending s. 509.032, F.S.; preempting the
regulation of vacation rentals to the state; providing
an exception; requiring a court of law to determine
compliance with specified provisions; amending s.
509.241, F.S.; requiring each person applying for a
vacation rental license to provide the Division of
Hotels and Restaurants of the Department of Business
and Professional Regulation with specified
information; requiring the division to make vacation
rental license information available to the public on
the division's website; providing an effective date.

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

Section 1. Subsection (7) of section 509.032, Florida
Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(a) Public lodging establishments and public food service
establishments.—The regulation of public lodging establishments
and public food service establishments, including, but not
limited to, sanitation standards, inspections, training and
testing of personnel, and matters related to the nutritional
content and marketing of foods offered in such establishments,
is preempted to the state. This paragraph does not preempt the
authority of a local government or local enforcement district to
conduct inspections of public lodging and public food service

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establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

(b) Vacation rentals.—

1. The Legislature finds that:

a. Property owners who choose to use their property as a vacation rental have constitutionally protected property rights and other rights that must be protected, including the right to use their residential property as a vacation rental;

b. Vacation rentals play a significant, unique, and critical role in Florida's tourism industry, and that role is different from other types of public lodging establishments;

c. There are factors unique to the ownership and operation of a vacation rental; and

d. Vacation rentals are residential in nature, a residential use and thus permitted in residential neighborhoods.

2. Except as provided under this paragraph, the regulation of vacation rentals, including, but not limited to, inspection, licensing, and occupancy limits, is expressly preempted to the state.

3. A local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental if the law, ordinance, or regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s. 509.242, the property is used as a long-term rental subject to chapter 83, or the property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit ~~vacation~~ rentals, impose occupancy limits, or regulate the

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duration or frequency of ~~rental of vacation~~ rentals.

4. A local law, ordinance, or regulation may not allow or require the inspection or licensing of vacation rentals.

5. A court of law shall determine if a local law, ordinance, or regulation complies with this section without regard to any assertion in the local law, ordinance, or regulation that it complies. In all actions brought pursuant to this section, the political subdivision that enacted the local law, ordinance, or regulation shall establish by clear and convincing evidence that the local law, ordinance, or regulation complies with this section ~~This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.~~

6.(e) ~~This~~ paragraph ~~(b)~~ does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

Section 2. Subsection (2) of section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(2) APPLICATION FOR LICENSE.—

(a) Each person who plans to open a public lodging establishment or a public food service establishment shall apply for and receive a license from the division prior to the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or

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(g) is not required to apply for or receive a public lodging establishment license.

(b) Each person applying for a vacation rental license shall provide the name, address, telephone number, and email address of the person the division may contact when a complaint related to a vacation rental is reported. The division shall make vacation rental license information, including the contact person, available to the public on the division's website.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: SB 1128

INTRODUCER: Senator Diaz

SUBJECT: Emotional Support Animals

DATE: March 26, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 1128 defines an emotional support animal as an animal that is not required to be trained to assist an individual with a disability. By virtue of its presence, the animal provides support to alleviate the symptoms or effects of an individual's disability.

The bill provides that an individual with a disability who needs an emotional support animal is entitled to full and equal access to all housing accommodations. The bill authorizes a housing accommodation to request certain written documentation prepared by a health care practitioner which verifies the individual has a disability or a disability-related need, has been under the practitioner's care, and the emotional support animal is needed.

Under the bill, a person who falsifies written documentation or misrepresents the use of an emotional support animal commits a misdemeanor of the second degree, which could result in incarceration for 60 days, a fine of \$500, or both. The bill requires such person to perform 30 hours of community service for an organization that serves individuals with disabilities.

The effective date of the bill is July 1, 2019.

II. Present Situation:

Americans with Disabilities Act

The Americans with Disabilities Act (ADA)¹ prohibits discrimination against individuals with disabilities² in employment,³ in the provision of public services,⁴ and in public accommodation or public entity.⁵ One of the requirements of the ADA is that public accommodation or public entity provide reasonable accommodations to disabled individuals accompanied by a service animal in all areas that are open to the public.⁶

A “service animal” is defined as a dog that is individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.⁷ The work or tasks performed by a service dog must be directly related to the individual’s disability.⁸ Emotional support, comfort, and companionship provided by a dog, even for therapeutic or medical purposes, are insufficient to classify it as a service animal.⁹

Service dogs must be harnessed or leashed, unless doing so interferes with the dog’s work or the individual’s disability prevents doing so.¹⁰ A person with a disability cannot be asked to remove his or her service dog from the premises, unless it is out of control and the dog’s handler does not take action to control it, or if the dog is not housebroken.¹¹ However, if the dog is removed under such circumstances, the public accommodation or public entity must still allow the individual with a disability the opportunity to remain on the premises of the public accommodation or public entity without the service dog.¹²

Generally, when it is clear that a dog is trained to do work or perform tasks (such as a guide dog), a public accommodation or public entity may not ask about the necessity of the service dog. If it is not obvious what service or task the dog is providing, extremely limited questions are allowed: staff may only ask if a service dog is required because of a disability, and what tasks the dog has been trained to perform.¹³ Any other questions, including the nature and extent of the person’s disability or medical documentation, are prohibited.¹⁴

¹ 42 U.S.C. s. 12101 *et seq.*

² Under the ADA, a disability is broadly defined to mean a physical or mental impairment that substantially limits the major life activities of an individual. 42 U.S.C. s. 12102(1)(a).

³ 42 U.S.C. s. 12112.

⁴ 42 U.S.C. s. 12132.

⁵ 42 U.S.C. s. 12182. Under the ADA, a “public entity” includes any state or local government, any department or agency of state or local government, and certain commuter authorities.

⁶ 28 C.F.R. ss. 36.302(a) and (c)(7) and 35.136(a) and (g).

⁷ 28 C.F.R. ss. 35.104 and 36.104.

⁸ *Id.*

⁹ *Id.*; ADA National Network, *Service Animals and Emotional Support Animals: Where are they allowed and under what conditions?*, 3 (2014), available at [http://adata.org/sites/adata.org/files/files/Service_Animal_Booklet_2014\(1\).pdf](http://adata.org/sites/adata.org/files/files/Service_Animal_Booklet_2014(1).pdf) (Last visited March 19, 2019).

¹⁰ 28 C.F.R. ss. 35.136(d) and 36.302(c)(4).

¹¹ 28 C.F.R. ss. 35.136(b) and 36.302(c)(2).

¹² 28 C.F.R. ss. 35.136(c) and 36.302(c)(3).

¹³ 28 C.F.R. ss. 35.136(f) and 36.302(c)(6).

¹⁴ *Id.*

Although the definition of a service animal is limited to dogs, the ADA contains an additional provision related to miniature horses that have been individually trained to work or perform tasks for people with disabilities.¹⁵ Miniature horses are an alternative service animal for individuals with disabilities who may be allergic to dogs; miniature horses also have life spans considerably longer than dogs and are generally stronger than most dogs.¹⁶ Similar to the requirements for service dogs, public accommodations and public entities must permit the use of a miniature horse by a person with a disability where reasonable. In determining whether permitting a miniature horse is reasonable, a facility must consider four factors: whether the miniature horse is housebroken; whether the miniature horse is under the owner's control; whether the facility can accommodate the miniature horse's type, size, and weight; and whether the miniature horse's presence will compromise safety requirements.¹⁷

If a public accommodation or public entity violates the ADA, a private party may file suit to obtain a court order to stop the violation. No monetary damages will be available in such suits; however, reasonable attorney's fee may be awarded.¹⁸ Individuals may also file complaints with the U.S. Attorney General, who is authorized to file lawsuits in cases of general public importance or where a "pattern or practice" of discrimination is alleged. In suits by the Attorney General, monetary damages and civil penalties may be awarded. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.¹⁹

Fair Housing Act

The federal Fair Housing Act (FHA)²⁰ prohibits discrimination against a person with a disability in the sale or rental of housing.²¹ Similar to the ADA, the FHA also requires a landlord to provide reasonable accommodations, including permitting the use of service animals, to a person with a disability.²² However, unlike the ADA which does not require reasonable accommodations for emotional support animals, accommodation of untrained emotional support animals may be required under the FHA, if such an accommodation is reasonably necessary to allow a person with a handicap an equal opportunity to enjoy and use housing.²³ A reasonable accommodation may include waiving a no-pet rule or a pet deposit.²⁴

¹⁵ 28 C.F.R. ss. 35.136(i) and 36.302(c)(9). Miniature horses generally range in height from 2 to 3 feet to the shoulders and weigh between 70 and 100 pounds. U.S. Dep't of Justice, Civil Rights Division, *Service Animals*, 3 (July 2011), available at http://www.ada.gov/service_animals_2010.pdf (Last visited March 19, 2019).

¹⁶ U.S. Dep't. of Justice, *Americans with Disabilities Act Title III Regulations: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*, 96 (Sept. 15, 2010) available at http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.pdf (Last visited March 19, 2019).

¹⁷ 28 C.F.R. ss. 35.136(i) and 36.302(c)(9)ii..

¹⁸ 42 U.S.C. ss. 12188 and 2000a-3.

¹⁹ 42 U.S.C. s 12188.

²⁰ 42 U.S.C. s. 3601 *et seq.*

²¹ 42 U.S.C. s. 3604(f).

²² *Id.*; 24 C.F.R. 5.303.

²³ Pet Ownership for the Elderly and Persons With Disabilities, 73 Fed Reg. 63834, 63836 (Oct. 27, 2008); *see, Fair Housing of the Dakotas, Inc. v. Goldmark Prop. Mgmt., Inc.*, 778 F. Supp. 2d 1028, 1036 (D.N.D. 2011) (finding that "the FHA encompasses all types of assistance animals regardless of training . . ."); *Overlook Mut. Homes, Inc. v. Spencer*, 666 F. Supp. 2d 850, 859 (S.D. Ohio 2009).

²⁴ *See* 24 C.F.R. s. 100.204 (Example (1)); *Intermountain Fair Housing Council v. CVE Falls Park, L.L.C.*, 2011 WL 2945824 (D. Idaho 2011); *Bronk v. Ineichen*, 54 F. 3d 425, 429 (7th Cir. 1995).

A landlord may not ask about the existence, nature, and extent of a person's disability. However, an individual with a disability who requests a reasonable accommodation may be asked to provide documentation for proper review of the accommodation request. A landlord may ask a person to certify, in writing, that the tenant or a member of his or her family is a person with a disability; the need for the animal to assist the person with that specific disability; and that the animal actually assists the person with a disability.²⁵

Florida Service Animal Law

Section 413.08, F.S., is Florida's companion to the ADA and FHA provisions regarding service animals.

Section 413.08, F.S., provides that an individual with a disability is entitled to equal access in public accommodations,²⁶ public employment,²⁷ and housing.²⁸ An "individual with a disability" means a person who has a physical or mental impairment that substantially limits one or more major life activities of the individual.²⁹

Under s. 413.08, F.S., an individual with a disability has the right to be accompanied by a trained service animal in all areas of public accommodations that the public is normally allowed to occupy.³⁰ Section 413.08, F.S., requires a public accommodation to modify its policies, practices, and procedures to permit use of a service animal by an individual with a disability. However, the public accommodation is not required to modify or provide any vehicle, premises, facility, or service to a higher degree of accommodation than is required for a non-disabled person.

Section 413.08(1)(d), F.S., in part, defines "service animal" to mean "an animal that is trained to perform tasks for an individual with a disability." Respecting access to or enjoyment of public accommodations, the term "service animal" is limited to mean a dog or miniature horse. The term "service animal" is not limited to a dog or miniature horse in the context of an employment-related accommodation.

Similar to the ADA, s. 413.08, F.S., provides that documentation that a service animal is trained is not a precondition for providing service, though a public accommodation may ask if an animal is a service animal and what tasks it is trained to perform.³¹ Additionally, a public accommodation:

- May not ask about the nature or extent of a disability;³²

²⁵ 73 Fed Reg. 63834.

²⁶ Section 413.08(1)(c), F.S., defines a "public accommodation" to mean "a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation; hotel; a timeshare that is a transient public lodging [...]; lodging place; place of public accommodation, amusement, or resort; and other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons. The term does not include air carriers..."

²⁷ Sections 413.08(5) and (7), F.S.

²⁸ Section 413.08(6), F.S.

²⁹ Section 413.08(1)(b), F.S.

³⁰ Sections 413.08(3), F.S.

³¹ Sections 413.08(3)(b), F.S.

³² *Id.*

- May require the service animal to be under the control of its handler and have a harness or leash;³³
- May not impose a deposit or surcharge on an individual with a disability as a precondition, even if a deposit is routinely required for pets;³⁴
- May hold an individual with a disability liable for damage caused by a service animal if it is the regular policy and practice of the public accommodation to charge nondisabled persons for damages caused by their pets;³⁵
- Is not required to provide care or food or a special location for the service animal or assistance with removing animal excrement;³⁶ and
- May exclude a service animal from the premises if the animal is out of control and the animal's handler does not take effective action to control it, the animal is not housebroken, or the animal's behavior poses a direct threat to the health and safety of others.³⁷

Like the FHA, under s. 413.08, F.S., an individual with a disability is entitled to rent or purchase any housing accommodations subject to the same conditions that are applicable to everyone.³⁸ An individual with a disability who has a service animal is entitled to full and equal access to all housing accommodations, and may not be required to pay extra compensation for the service animal.³⁹

Section 413.08(9), F.S., provides that any person who denies or interferes with the rights of a person with a disability or an individual training a service animal commits a second-degree misdemeanor.⁴⁰

Emotional Support Animals

According to the United States Department of Housing and Urban Development (HUD),⁴¹ an emotional support animal [ESA] is not a pet, but includes any animal providing emotional support to a person with a disability.⁴² Unlike a service animal, an ESA is not trained to work or perform certain tasks, but provides emotional support alleviating one or more symptoms or effects of a person's disability.⁴³ The most common type of ESA is a dog; however, other species of animals may be an ESA.

³³ Sections 413.08(3)(a), F.S.

³⁴ Sections 413.08(3)(c), F.S.

³⁵ Sections 413.08(3)(d), F.S.

³⁶ Sections 413.08(3)(e), F.S.

³⁷ Sections 413.08(3)(f), F.S.

³⁸ Sections 413.08(6), F.S.

³⁹ Sections 413.08(6)(b), F.S.

⁴⁰ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

⁴¹ HUD is the Federal agency responsible for national policy and programs addressing America's housing needs, improving and developing the Nation's communities, and enforcing fair housing laws, including violations of the Fair Housing Act. HUD.GOV, *Questions and Answers about HUD*, <https://www.hud.gov/about/qaintro> (last visited Mar. 18, 2019).

⁴² U.S. Department of Housing and Urban Development, *FEHO Notice: FHEO-2013-01*, (Apr. 25, 20013), https://www.hud.gov/sites/documents/SERVANIMALS_NTCFHEO2013-01.PDF (last visited Mar. 18, 2019).

⁴³ *Id.*

According to HUD, “[ESAs] provide very private functions for persons with mental and emotional disabilities. Specifically, [ESAs] by their very nature and without training, may relieve depression and anxiety, and help reduce stress-induced pain in persons with certain medical conditions affected by stress;”⁴⁴

Emotional support animals provide therapeutic support to relieve symptoms of psychiatric disabilities, including depression, anxiety, and post-traumatic stress disorder.⁴⁵

III. Effect of Proposed Changes:

Section 1 amends s. 413.08, F.S., to expand the rights and responsibilities of an individual with a disability to include use of an emotional support animal.

The bill defines the term “emotional support animal” to mean an animal that does not require training to do specific work or perform special tasks for an individual with a disability, but which provides support to alleviate one or more identified symptoms or effects of an individual’s disability.

The bill outlines those rights and responsibilities as:

- An individual with a disability who has an emotional support animal is entitled to full and equal access to all housing accommodations.
- A housing accommodation may not require such individual to pay extra compensation to live with an emotional support animal.
- A housing accommodation is authorized to request certain written documentation prepared by a health care practitioner which verifies the individual has a disability or a disability-related need, has been under the practitioner’s care, and the emotional support animal is needed.
- The Department of Health is authorized to adopt rules to administer the provisions of the bill.
- An individual with a disability is liable for certain damage done by her or his emotional support animal.
- A person who falsifies written documentation for an emotional support animal or misrepresents being qualified to use an emotional an emotional support animal commits a misdemeanor of the second degree, and must perform 30 hours of community service for an organization that serves individuals with disabilities.

Section 2 provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴⁴ *Id.*

⁴⁵ Brazelon Center for Mental Health Law, *Right to Emotional Support Animals in “No Pet” Housing*, (Jun. 16, 2017), <http://www.bazelon.org/wp-content/uploads/2017/04/2017-06-16-Emotional-Support-Animal-Fact-Sheet-for-Website-final.pdf> (last visited Mar. 18, 2019).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 413.08 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: March 20, 2019

I respectfully request that **Senate Bill # 1128**, relating to Emotional Support Animals, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

A handwritten signature in black ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36



The Florida Senate

Senator Manny Diaz, Jr.

District 36

District Office:

Hialeah Gardens City Hall
10001 NW 87 Avenue
Hialeah Gardens, Florida 33016
(305) 364-3073

Tallahassee Office:

306 Senate Building
404 South Monroe Street
Tallahassee, Florida 32399
(850) 487-5036

Email: diaz.manny@flsenate.gov

March 25, 2019

Senator Wilton Simpson, Chair
Innovation, Industry, and Technology
525 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simpson,

A handwritten signature in black ink, appearing to be "W. Simpson", written over a horizontal line.

I am scheduled to present before your committee on Tuesday March 26, SB 1128 Emotional Support Animals. Because of a conflict in my schedule, I will not be able to present the bill. By way of this letter, I am requesting that Senator Oscar Braynon please be allowed to present this bill on my behalf. Please do not hesitate to contact my office if any questions. Thank you.

Best,

A handwritten signature in black ink, appearing to be "M. Diaz", written in a cursive style.

Manny Diaz, Jr.
State Senator
District 36

CC: Booter Imhof, Staff Director
Lynn Koon, Administrative Assistant

Education Committee Chair, Appropriations Subcommittee on Education, Health Policy,
Appropriations Subcommittee on Health and Human Services, Ethics and Elections,
Joint Select Committee on Collective Bargaining

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/6/2019
Meeting Date1128
Bill Number (if applicable)

Topic EMOTIONAL SUPPORT ANIMALS

Amendment Barcode (if applicable)

Name KELLY C. MALLETTE

Job Title DIRECTOR OF GOVERNMENT AFFAIRS

Address 104 W. JEFFERSON STREET Phone

Street

TLH

City

FL

State

32301

Zip

Email

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

Representing FLORIDA APARTMENT ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/26/19

Meeting Date

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

1128

Bill Number (if applicable)

Topic Emotional Support Animals

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title FL state director

Address 1624 Metropolitan Circle

Street

Tallahassee

State

Zip

Phone 850 508-1001

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

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.

S-001 (10/14/14)

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 1128
FINAL ACTION: Favorable
MEETING DATE: Tuesday, March 26, 2019
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By Senator Diaz

36-01735-19

20191128__

A bill to be entitled
An act relating to emotional support animals; amending
s. 413.08, F.S.; revising and providing definitions;
providing that an individual with a disability who has
an emotional support animal or obtains an emotional
support animal is entitled to full and equal access to
all housing accommodations; prohibiting a housing
accommodation from requiring such individual to pay
extra compensation for such animal; authorizing a
housing accommodation to request certain written
documentation under certain circumstances; authorizing
the Department of Health to adopt rules; specifying
that an individual with a disability is liable for
certain damage done by her or his emotional support
animal; prohibiting the falsification of written
documentation or other misrepresentation regarding the
use of an emotional support animal; providing
penalties; providing an effective date.

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

Section 1. Present paragraphs (a) through (d) of subsection
(1) of section 413.08, Florida Statutes, are redesignated as
paragraphs (b) through (e), respectively, present paragraph (d)
of subsection (1) and paragraph (b) of subsection (6) are
amended, a new paragraph (a) is added to subsection (1), and
subsection (10) is added to that section, to read:

413.08 Rights and responsibilities of an individual with a
disability; use of a service animal or an emotional support

36-01735-19

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animal; prohibited discrimination in public employment, public accommodations, and housing accommodations; penalties.—

(1) As used in this section and s. 413.081, the term:

(a) "Emotional support animal" means an animal that does not require training to do specific work or perform special tasks for an individual with a disability but, by virtue of its presence, provides support to alleviate one or more identified symptoms or effects of an individual's disability.

(e)~~(d)~~ "Service animal" means an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The work done or tasks performed must be directly related to the individual's disability and may include, but are not limited to, guiding an individual who is visually impaired or blind, alerting an individual who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting an individual who is having a seizure, retrieving objects, alerting an individual to the presence of allergens, providing physical support and assistance with balance and stability to an individual with a mobility disability, helping an individual with a psychiatric or neurological disability by preventing or interrupting impulsive or destructive behaviors, reminding an individual with mental illness to take prescribed medications, calming an individual with posttraumatic stress disorder during an anxiety attack, or doing other specific work or performing other special tasks. A service animal is not a pet. For purposes of subsections (2), (3), and (4), the term "service animal" is limited to a dog or miniature horse. The crime-deterrent effect of an animal's

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20191128__

59 presence and the provision of emotional support, well-being,
60 comfort, or companionship do not constitute work or tasks for
61 purposes of this definition.

62 (6) An individual with a disability is entitled to rent,
63 lease, or purchase, as other members of the general public, any
64 housing accommodations offered for rent, lease, or other
65 compensation in this state, subject to the conditions and
66 limitations established by law and applicable alike to all
67 persons.

68 (b)1. An individual with a disability who has a service
69 animal or who obtains a service animal is entitled to full and
70 equal access to all housing accommodations provided for in this
71 section, and such individual ~~a person~~ may not be required to pay
72 extra compensation for such animal. This subparagraph does not
73 apply to an emotional support animal.

74 2.a. An individual with a disability who has an emotional
75 support animal or who obtains an emotional support animal is
76 entitled to full and equal access to all housing accommodations
77 provided for in this section, and such individual may not be
78 required to pay extra compensation for such animal. If an
79 individual's disability or disability-related need is not
80 readily apparent to a housing accommodation, the housing
81 accommodation may request written documentation prepared by a
82 health care practitioner, as defined in s. 456.001, which
83 verifies that the individual has a disability or a disability-
84 related need and has been under the practitioner's care or
85 treatment for such disability or need, and the animal provides
86 support to alleviate one or more identified symptoms or effects
87 of the individual's disability or disability-related need.

36-01735-19

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88 b. The written documentation, as specified in sub-
89 subparagraph a., must be prepared in a format prescribed by the
90 Department of Health in rule and may not be prepared by a health
91 care practitioner whose exclusive service to the individual with
92 a disability is preparation of the written documentation in
93 exchange for a fee. The Department of Health may adopt rules to
94 administer this sub-subparagraph.

95 c. This subparagraph does not apply to a service animal.

96 3. An individual with a disability ~~However, such a person~~
97 ~~is liable for any damage done to the premises or to another~~
98 ~~person on the premises by her or his service the animal or~~
99 ~~emotional support animal.~~ A housing accommodation may request
100 proof of compliance with vaccination requirements.

101 (10) A person who falsifies written documentation, as
102 specified in sub-subparagraph (6)(b)2.a., for an emotional
103 support animal or otherwise knowingly and willfully
104 misrepresents herself or himself, through conduct or verbal or
105 written notice, as using an emotional support animal and being
106 qualified to use an emotional support animal commits a
107 misdemeanor of the second degree, punishable as provided in s.
108 775.082 or s. 775.083, and must perform 30 hours of community
109 service for an organization that serves individuals with
110 disabilities, or for another entity or organization at the
111 discretion of the court, to be completed in not more than 6
112 months.

113 Section 2. This act shall take effect July 1, 2019.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Innovation, Industry, and Technology

BILL: CS/SB 1118

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Hutson

SUBJECT: Construction Industry Workforce

DATE: March 26, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	IT	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1118 authorizes the Department of Business and Professional Regulation (DBPR) to distribute funds on a quarterly basis to the M.E. Rinker, Sr. School of Construction Management at the University of Florida (Rinker School), for project coordination (with state agencies, CareerSource, Inc., and the Florida Construction Workforce Consortium, Inc.), research, construction career job fairs, education, and advocacy of construction employment and careers at the K-12 school levels (the Workforce Program).

The funding source for the Workforce Program is the Professional Regulation Trust Fund, which is allocated funding from the 1.5 percent surcharge imposed by current law on all building permit fees collected by local governments. The bill requires 25 percent of the annual funding of the Building Code Administrators and Inspectors Fund from the surcharge be distributed to the Rinker School. The estimated amount of funding for the Rinker School under the bill is approximately \$1 million annually, based on Fiscal Year 2017-2018 surcharge collections data provided by the Department of Business and Professional Regulation.¹

The bill has a fiscal impact to state government. *See* Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2019.

¹ See 2019 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for HB 775 (identical to SB 1118), Mar. 4, 2019 (on file with Senate Committee on Innovation, Industries, and Technology) at page 5.

II. Present Situation:

The DBPR licenses and regulates businesses and professionals in Florida. Separate divisions in the DBPR and various professional boards are responsible for carrying out the DBPR's mission to license efficiently and regulate fairly.

Section 468.605, F.S., creates the Florida Building Code Administrators and Inspectors Board (Board) within the DBPR to regulate the practice of building code administration and inspection in the State of Florida. The board consists of nine members appointed by the Governor, who are subject to confirmation by the Senate.

Pursuant to s. 468.631, F.S., the Building Code Administrators and Inspectors Fund and the Florida Homeowners' Construction Recovery Fund are funded through a 1.5 percent surcharge on all permitting fees associated with enforcement of the Florida Building Code.² Surcharge proceeds received by the DBPR are allocated equally between each fund, after deduction of the required service charge.³ Thereafter, the surcharge proceeds are allocated equally to fund the functions of the Building Code Administrators and Inspectors Board⁴ and the Florida Homeowners' Construction Recovery Fund (Recovery Fund).

The Recovery Fund is dedicated to payment of validated claims for sub-standard work on Florida residences by certain contractors.⁵ The DBPR reviews filed claims for completeness and statutory eligibility, and presents the claim to the Construction Industry Licensing Board for review.⁶

M.E. Rinker, Sr. School of Construction Management at the University of Florida

The M.E. Rinker School of Construction Management (Rinker School) has over 7,050 graduates (6,000 B.S., 1,000 M.S., and 50 Ph.D. degrees conferred), 20 faculty members, and 13 support staff.⁷ Its predecessor program began in 1935 and is the oldest continuing building construction program in the United States.⁸

In 1997, the National Center for Construction Education and Research (NCCER) became affiliated with the Rinker School, and in 2003, the Rinker School moved to Rinker Hall, the 26th

² Building departments submit a quarterly report to the DBPR of the collected permit fees, less 10 percent as authorized by law, to fund participation in national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code; the minimum amount collected on any issued permit is \$2. *See* s. 468.631, F.S. and 2019 *Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for HB 775*, (identical to SB 1118 (Mar. 4, 2019 (on file with Senate Committee on Innovation, Industries, and Technology) at page 2.

³ *See* s. 215.20, F.S., which imposes the required eight percent service charge represents the estimated pro rata share of the cost of general government paid from the General Revenue Fund

⁴ The board licenses and regulates building code administrators and inspectors, and plans examiners. *See* s 468.606, F.S.

⁵ *See* s. 489.140, F.S.

⁶ *See* ss. 489.141 and 489.142, F.S.

⁷ *See* <https://dcp.ufl.edu/rinker/about/history/> (last visited Mar. 21, 2019).

⁸ *Id.*

building in the United States to have been awarded LEED Gold certification.⁹ In 2014, the Rinker School was renamed the M.E. Rinker, Sr. School of Construction Management.¹⁰

CareerSource Florida

CareerSource Florida, Inc. is a workforce policy and investment board, whose members are business and government leaders charged with guiding workforce development for the state.¹¹ CareerSource Florida provides oversight and policy direction for talent development programs administered by the Department of Economic Opportunity, Florida's 24 local workforce development boards, and 100 career centers. This network connects employers with qualified and skilled people and benefits Floridians through job and career opportunities.¹²

CareerSource Florida is not a state governmental entity, and although it is administratively housed within the Department of Economic Opportunity (DEO), it is not subject to DEO's control, supervision, or direction.¹³ However, the board, councils, and any advisory committees or similar groups created by CareerSource Florida are subject to the requirements in Florida law relating to public records and public meetings.¹⁴

Construction Industry Workforce Taskforce

In 2016, the Legislature created the Construction Industry Workforce Taskforce (Taskforce) within the Rinker School to address the critical shortage of individuals trained in building construction and inspection, through the following activities:¹⁵

- Developing a consensus path for training the next generation of construction workers in the state;
- Determining the causes for the current shortage of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market;
- Reviewing current methods and resources available for construction training;
- Reviewing the state of construction training available in K-12 schools; and
- Addressing the training issues relating to building code inspectors to increase the number of qualified inspectors.

The 22-member Taskforce represented various construction associations, and included members representing the Florida Senate and the Florida House of Representatives.¹⁶ The Legislature required the Rinker School to assist the Taskforce in carrying out its responsibilities and to

⁹ The acronym "LEED" stands for "Leadership in Energy and Environmental Design. Participation in the LEED Rating System is voluntary, and certification is granted by the United States Green Building Council, a nonprofit organization. *See* <https://www.buildinggreen.com/leed> (last visited Mar. 21, 2019).

¹⁰ *Id.*

¹¹ *See* <https://careersourceflorida.com/> (last visited Mar. 21, 2019). CareerSource Florida, Inc. was formerly known as Workforce Florida, Inc.

¹² *Id.*

¹³ *See* s. 445.004(1), F.S.

¹⁴ *Id.*

¹⁵ *See* ch. 2016-129, s. 31, Laws of Fla.

¹⁶ *Id.*; see subsection (2) for the list of the associations that could appoint Taskforce members.

submit a final report with recommendations¹⁷ to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2017.

In 2017, the Legislature enacted the following recommendations of the Taskforce:

- Provided that, in addition to performing plans examinations or inspections in a building official's jurisdiction, a building official may perform plans examinations and inspections in a jurisdiction with a population of 50,000 or less (under interagency agreements);¹⁸
- Created an internship certification program as a qualification to take the building inspector or plans examiner examination;¹⁹
- Expanded issuance of provisional certificates;²⁰ and
- Included residential plans examiners within the term "plans examiners" qualified to determine that building plans comply with applicable codes.²¹

The Florida Construction Workforce Consortium, Inc.

In 2018, Articles of Incorporation were filed with the Secretary of State to create the "Florida Construction Workforce Consortium, Inc.," a Florida not-for-profit corporation²² organized to:

- Promote career path options within the construction industry;
- Advocate construction employment;
- Serve as a single, unified source of information of industry information for policymakers;
- Create and maintain a state website for the above purposes; and
- Promote and support research into construction issues.

III. Effect of Proposed Changes:

The bill amends s. 468.631, F.S., relating to the Building Code Administrators and Inspectors Fund, to authorize funding to the M.E. Rinker, Sr. School of Construction Management at the University of Florida, for the following purposes:

- Project coordination with partners, including the Departments of Education, Economic Opportunity and Corrections, as well as CareerSource Florida, Inc.;²³

¹⁷ See the Final Report at <https://www.cce.ufl.edu/wp-content/uploads/2016/12/Florida-Construction-Workforce-Taskforce-Report-Legislative-Recommendations-2.pdf> (last visited Mar. 13, 2019).

¹⁸ See s. 468.603(2), F.S.

¹⁹ See s. 468.609(2)(c), F.S.

²⁰ See s. 468.609(7), F.S.

²¹ See s. 468.603(8), F.S.

²² Public records filed Feb. 26, 2019 reflect the names of four directors serving the corporation. These records are available at <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2018%5C0219%5C08770728.Tif&documentNumber=N18000001717> and <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDA CONSTRUCTION WORKFORCE CO%20N180000017170&aggregateId=domnp-n18000001717-39902367-e82a-4f9c-a50b-c46a13f98f0f&searchTerm=florida%20construction%20workforce&listNameOrder=FLORIDA CONSTRUCTION WORKFORCE CO%20N180000017170> (last visited Mar. 22, 2019).

²³ See *supra* note 11 for information about CareerSource, Inc., which is a Florida not-for-profit corporation formerly known as Workforce Florida, Inc., incorporated in 2000.

- Project coordination with the Florida Construction Workforce Consortium, Inc.;²⁴
- Research into construction education issues;
- Advocacy of construction employment at the K-12 school levels;
- Development and maintenance of a “Build Your Future Florida” website;²⁵
- Construction careers job fairs; and
- Sponsorship of K-12 after-school activities that focus on construction careers.

The bill requires 25 percent of the annual funding of the Building Code Administrators and Inspectors Fund from proceeds of the 1.5 percent surcharge imposed by current law on all building permit fees collected by local governments be distributed to the Rinker School. The estimated amount of funding for the Rinker School under the bill is approximately \$1 million annually, based on Fiscal Year 2017-2018 surcharge collections data provided by the Department of Business and Professional Regulation.²⁶

The bill provides an effective date of July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²⁴ See *supra* note 22 for information about the not-for-profit Florida entity incorporated in 2018 as “The Florida Construction Workforce Consortium, Inc.”

²⁵ “Build Your Future” creates partnerships with various states and private entities to assist with construction industry workforce recruitment, and offers website development; other states that are partners are Indiana, Missouri, and Virginia. See <http://www.byf.org/get-involved/partnerships/> (last visited Mar. 21, 2019).

²⁶ See 2019 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for HB 775 (identical to SB 1118), Mar. 4, 2019 (on file with Senate Committee on Innovation, Industries, and Technology) at page 5.

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

None.

B. Private Sector Impact:

The bill provides funding for efforts related to research, construction career job fairs, education, and advocacy of construction employment and careers at the K-12 school levels. These activities may improve the availability of skilled people for building construction trades and related industries in the state.

C. Government Sector Impact:

The bill requires 25 percent of the annual funding of the Building Code Administrators and Inspectors Fund from the building permit fee surcharge be distributed to the Rinker School. The estimated amount of funding for the Rinker School under the bill is approximately \$1 million annually, based on Fiscal Year 2017-2018 surcharge collections data provided by the Department of Business and Professional Regulation.²⁷

The DBPR indicates that it must have non-operating authority to transfer funds to the Rinker School.²⁸

As of June 30, 2018, the account balances for the two accounts were:

- Florida Building Code Administrators and Inspectors Board - \$13,045,112; and
- Florida Homeowners' Construction Recovery Fund - \$7,667,573.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under the bill, funding to the Rinker School for the purposes enumerated in the bill will be distributed quarterly by the DBPR. The bill does not address reporting, accounting, audit, expenditure, procurement, or similar requirements for the use of the funds by the recipient or those it may coordinate or contract with to accomplish those purposes.

VIII. Statutes Affected:

This bill substantially amends section 468.631 of the Florida Statutes.

²⁷ See 2019 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for HB 775 (identical to SB 1118), Mar. 4, 2019 (on file with Senate Committee on Innovation, Industries, and Technology) at page 5.

²⁸ *Id.* at page 6.

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 Innovation, Industry, and Technology on March 26, 2019:

The committee substitute revises language related to the calculation of funding to the Rinker School to require that 25 percent of the annual funding of the Building Code Administrators and Inspectors Fund from the building permit fees surcharge be distributed to the Rinker School; the estimated amount of such funding is approximately \$1 million annually, based on Fiscal Year 2017-2018 surcharge collections.

- B. **Amendments:**

None.



221316

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology (Hutson) recommended the following:

Senate Amendment

Delete lines 37 - 58
and insert:

(a) The proceeds from this surcharge, less the service charge imposed under s. 215.20, shall be allocated equally to fund the Florida Homeowners' Construction Recovery Fund established by s. 489.140 and the functions of the Building Code Administrators and Inspectors Board.

(b) On a quarterly calendar basis, one-quarter of the



221316

proceeds allocated to the Building Code Administrators and
Inspectors Fund from the surcharge shall be distributed to the
M.E. Rinker, Sr. School of Construction Management at the
University of Florida and may be used for the following
purposes:

1. Project coordination with institutional partners,
including the Department of Education, the Department of
Economic Opportunity, the Department of Corrections, and
CareerSource Florida, Inc.

2. Project coordination with the Florida Construction
Workforce Consortium, Inc.

3. Research into construction education issues.

4. Advocacy of construction employment at the K-12 school
levels.

5. Development and maintenance of a Build Your Future
Florida website.

6. Construction careers job fairs.

7. Sponsorship of K-12 after-school activities that focus
on construction careers.

(c) The



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: March 4, 2019

I respectfully request that **Senate Bill #1118**, relating to Construction Industry Workforce, be placed on the:

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

A handwritten signature in cursive script, reading "Travis Hutson", written over a horizontal line.

Senator Travis Hutson
Florida Senate, District 7



2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Business & Professional
Regulation

<u>BILL INFORMATION</u>	
BILL NUMBER:	<u>HB 775</u>
BILL TITLE:	<u>Construction Industry Workforce</u>
BILL SPONSOR:	<u>Rep. Leek</u>
EFFECTIVE DATE:	<u>7/1/19</u>

<u>COMMITTEES OF REFERENCE</u>	
1)	Business & Professions Subcommittee
2)	Government Operations & Technology Appropriations Subcommittee
3)	Commerce Committee
4)	Click or tap here to enter text.
5)	
<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

<u>CURRENT COMMITTEE</u>
Business & Professions Subcommittee

<u>SIMILAR BILLS</u>	
BILL NUMBER:	N/A
SPONSOR:	N/A

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	SB 1118
SPONSOR:	Sen. Hutson

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	March 4, 2019

LEAD AGENCY ANALYST:	Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board
ADDITIONAL ANALYST(S):	Tom Coker, Technology Thomas Izzo, OGC Rules Tracy Dixon, Service Operations Dan Biggins, Executive Director, Construction Industry Licensing Board
LEGAL ANALYST:	Tom Thomas, Deputy General Counsel
FISCAL ANALYST:	Raleigh Close, AFM

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill provides for the distribution of one quarter of one percent of the Florida Building Code surcharge fees submitted to the Department of Business and Professional Regulation (DBPR) by building departments to be allocated, on a quarterly basis, to the University of Florida's M.E. Rinker, Sr., School of Construction Management for various outreach opportunities focusing on construction careers.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

All building departments are currently required to submit a report and payment to the DBPR for permit fees collected on a quarterly basis. Building departments are required to collect and remit to DBPR 1.5 percent of all permit fees associated with the enforcement of the Florida Building Code, with the minimum collected on any permit to be \$2. The governmental agency collecting the permit fees is authorized to retain 10 percent to participate in national and state building code adoption processes and to provide Florida Building Code related education. In addition, the Florida Homeowners' Construction Recovery Fund receives one-half of the collected permit fees submitted to the DBPR.

2. EFFECT OF THE BILL:

Section 1.

This bill provides for the distribution of one quarter of one percent of the Florida Building Code surcharge received by the DBPR to be distributed to the M.E. Rinker, Sr., School of Construction Management at the University of Florida. The Rinker School will use the funds for project coordination with institutional partners and the Florida Construction Workforce Consortium, research of construction educational issues, advocacy of construction employment, development and maintenance of a Building Your Future Florida website, construction careers job fairs, and afterschool activities focused on construction careers.

The bill provides that this fee shall be paid from surcharge fees submitted to the DBPR and the remaining balance shall be split equally between the Building Code Administrators and Inspectors Board and the Florida Homeowners' Construction Recovery Fund.

Section 2

This bill provides an effective date of July 1, 2019.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>

Rule(s) impacted (provide references to F.A.C., etc.):	N/A
--	-----

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No

If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A
---	-----

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	Reduction in the amount of funds available annually to the Florida Homeowners' Construction Recovery Fund and the Building Code Administrators and Inspectors Board. New recurring source of funding for the M.E. Rinker, Sr., School of Construction Management at the University of Florida. See additional comments.
Expenditures:	None anticipated.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?

Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
--	-----

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?

Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	N/A
--	-----

ADDITIONAL COMMENTS

Division of Professions: It is not clear if the bill provides for a direct transfer of funds from the Department of Business and Professional Regulation to the University of Florida, or if the bill will require a contract to be administered by the Department of Business and Professional Regulation. The bill authorizes the expenditure of funds for a number of optional purposes, but does not provide specific deliverables that are required for effective contract administration.

Fiscal Comment: In Section 1 of the bill at lines 33 through 36 it states that "one quarter of 1 percent of proceeds from the surcharge shall be distributed to the M.E. Rinker, Sr., School of Construction Management at the University of Florida..." The bill does not specify if the proceeds are from the gross surcharge funds deposited into the Building Code Administrators and Inspectors Fund or the funds remaining after the service charge of 8% required by s. 215.20, F.S., has been applied.

During Fiscal Year 2017-18 the Florida Building Code permit fee surcharge resulted in \$8,995,856 being split equally between the Florida Homeowners' Construction Recovery Fund and the Building Code Administrators and Inspectors Board (\$4,119,694 each after subtracting the 8% service charge for General Revenue).

The bill requires one quarter of 1% of the funds (proceeds) from the Florida Building Code permit fee surcharge be distributed to the M.E. Rinker, Sr., School of Construction Management at the University of Florida (Rinker School) and the remaining funds be allocated equally between the Florida Homeowners' Construction Recovery Fund (Recovery Fund) and the Building Code Administrators and Inspectors Board (Board).

Assuming the same amount of permit fee surcharges are collected in subsequent fiscal years, if the 8% service charge to General Revenue is applied prior to distribution, the Rinker School will receive \$20,598 and the Recovery Fund and the Board will receive \$4,109,395 each.

However, assuming the same amount of permit fee surcharges are collected in subsequent fiscal years and **no** 8% service charge for General Revenue is applied prior to the initial one quarter of 1% distribution to the Rinker School, the Rinker School will receive \$22,390. The Recovery Fund and the Board will receive \$4,109,395 each after the 8% service charge to General Revenue is applied.

It is unknown if funds distributed to (or received by) the Rinker School are exempt from the General Revenue Fund service charge requirements of s. 215.20, F.S. It is unknown if the 8% service charge for General Revenue should be applied to the one quarter of 1% of the Building Code surcharge that is to be distributed to the Rinker School prior to distribution from the Building Code Administrators and Inspectors Fund.

The department will need non-operating authority to transfer funds to the Rinker School.

Division of Service Operations: No impact.

OGC Rules: No additional comments.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW	
Issues/concerns/comments:	No additional comments.

THE FLORIDA SENATE

APPEARANCE RECORD

3-26-19

Meeting Date

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

1118

Bill Number (if applicable)

Topic

WORKFORCE EDUCATION CONSTRUCTION

221316

Amendment Barcode (if applicable)

Name

Cam FENTRISSE

Job Title

Leg. Counsel

Address

1400 Vunice Sq #3243

Phone

850-222-2772

Street

TALL

FL

State

32312

Zip

Email

CFENTRISSE@AOL.COM

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FIA, REFRIGERATION & AC CONTRACTORS ASSN

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-26-19

Meeting Date

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

1118

Bill Number (if applicable)

Topic

WORKFORCE EDUCATION - CONSTRUCTION

221316

Amendment Barcode (if applicable)

Name

CAM FENTRESS

Job Title

LEG. COUNSEL

Address

1400 VILLAGE SQ #3-243

Phone

850-222-2773

Street

City

TALLAHASSEE

State

FL

Zip

32312

Email

CFENTRESS@AOL.COM

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FHA ROOFING + SHEET METAL CONTRACTORS ASSN

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-26-14

Meeting Date

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

LB 1118

Bill Number (if applicable)

Topic

Construction Industry Workforce

Amendment Barcode (if applicable)

Name

KARI HERBANK

Funding

Job Title

Address

113 EAST COLLEGE, SUITE 200

Phone

850-566-1824

Street

ATLANTA GA 30301

Email

Kari@wilsonmgmt.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

NATIONAL ASSOCIATION OF UTILITY CONTRACTORS

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.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/26/19

Meeting Date

1118

Bill Number (if applicable)

Topic Construction Industry Workforce

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Chief Lobbyist

Address 3730 Coconut Creek Parkway, Ste 200
Street

Phone (954) 465-6811

Coconut Creek FL 33066
City State Zip

Email cbowen@abcuasflorida.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Builders and Contractors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/26/19

Meeting Date

1118

Bill Number (if applicable)

Topic Construction Industry Workforce

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Parkway

Phone 567-1073

Street

Tallahassee

FL

32308

City

State

Zip

Email rpayton@fhba.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Home Builders Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

COMMITTEE:	Innovation, Industry, and Technology
ITEM:	SB 1118
FINAL ACTION:	Favorable with Committee Substitute
MEETING DATE:	Tuesday, March 26, 2019
TIME:	1:30—3:30 p.m.
PLACE:	110 Senate Building

FINAL VOTE			3/26/2019 Amendment 221316		3/26/2019 Motion to vote "YEA" after Roll Call		3/26/2019 Motion to vote "YEA" after Roll Call	
			Hutson		Braynon		Farmer	
Yea	Nay	SENATORS	Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
VA		Braynon						
VA		Farmer						
X		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
10	0		RCS	-	FAV	-	FAV	-
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Innovation, Industry, and Technology; and
Senator Hutson

580-03506-19

20191118c1

A bill to be entitled
An act relating to the construction industry
workforce; amending s. 468.631, F.S.; requiring that a
specified amount of funds relating to the Building
Code Administrators and Inspectors Fund be allocated
to the University of Florida M.E. Rinker, Sr. School
of Construction Management; authorizing the school to
use the funds for specified purposes; providing an
effective date.

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

Section 1. Subsection (1) of section 468.631, Florida
Statutes, is amended to read:

468.631 Building Code Administrators and Inspectors Fund.—

(1) This part shall be funded through a surcharge, to be
assessed pursuant to s. 125.56(4) or s. 166.201 at the rate of
1.5 percent of all permit fees associated with enforcement of
the Florida Building Code as defined by the uniform account
criteria and specifically the uniform account code for building
permits adopted for local government financial reporting
pursuant to s. 218.32. The minimum amount collected on any
permit issued shall be \$2. The unit of government responsible
for collecting permit fees pursuant to s. 125.56 or s. 166.201
shall collect such surcharge and shall remit the funds to the
department on a quarterly calendar basis beginning not later
than December 31, 2010, for the preceding quarter, and
continuing each third month thereafter; and such unit of
government shall retain 10 percent of the surcharge collected to

580-03506-19

20191118c1

30 fund the participation of building departments in the national
31 and state building code adoption processes and to provide
32 education related to enforcement of the Florida Building Code.
33 There is created within the Professional Regulation Trust Fund a
34 separate account to be known as the Building Code Administrators
35 and Inspectors Fund, which shall deposit and disburse funds as
36 necessary for the implementation of this part.

37 (a) The proceeds from this surcharge, less the service
38 charge imposed under s. 215.20, shall be allocated equally to
39 fund the Florida Homeowners' Construction Recovery Fund
40 established by s. 489.140 and the functions of the Building Code
41 Administrators and Inspectors Board.

42 (b) On a quarterly calendar basis, one-quarter of the
43 proceeds allocated to the Building Code Administrators and
44 Inspectors Fund from the surcharge shall be distributed to the
45 M.E. Rinker, Sr. School of Construction Management at the
46 University of Florida and may be used for the following
47 purposes:

48 1. Project coordination with institutional partners,
49 including the Department of Education, the Department of
50 Economic Opportunity, the Department of Corrections, and
51 CareerSource Florida, Inc.

52 2. Project coordination with the Florida Construction
53 Workforce Consortium, Inc.

54 3. Research into construction education issues.

55 4. Advocacy of construction employment at the K-12 school
56 levels.

57 5. Development and maintenance of a Build Your Future
58 Florida website.

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59 6. Construction careers job fairs.

60 7. Sponsorship of K-12 after-school activities that focus
61 on construction careers.

62 (c) The department may transfer excess cash to the Florida
63 Homeowners' Construction Recovery Fund that it determines is not
64 required to fund the board from the board's account within the
65 Professional Regulation Trust Fund. However, the department may
66 not transfer excess cash that would exceed the amount
67 appropriated in the General Appropriations Act, and any amount
68 approved by the Legislative Budget Commission pursuant to s.
69 216.181, to be used for the payment of claims from the Florida
70 Homeowners' Construction Recovery Fund.

71 Section 2. This act shall take effect July 1, 2019.

CourtSmart Tag Report

Room: EL 110
Caption: Senate Committee on Innovation, Industry, and Technology

Case No.:

Type:
Judge:

Started: 3/26/2019 1:34:19 PM

Ends: 3/26/2019 3:29:51 PM

Length: 01:55:33

1:34:18 PM	Call to order
1:34:23 PM	Pledge of Allegiance
1:35:03 PM	Opening Remarks by chair
1:35:19 PM	Take up Tab 1 Appointment of Jim Poppell; Secretary of the Lottery
1:35:43 PM	Mr. Poppell for remarks
1:40:46 PM	Questions?
1:40:51 PM	Senator Bradley for a question
1:41:04 PM	Mr. Poppell for a response
1:41:35 PM	Senator Bradley for a follow up
1:41:48 PM	Mr. Poppell for a response
1:43:33 PM	Leader Gibson for a question/statement
1:44:09 PM	Mr. Poppell for a response
1:45:09 PM	Leader Gibson for a follow up
1:45:34 PM	Mr. Poppell for a response
1:46:15 PM	Leader Gibson for a question
1:46:44 PM	Senator Beenacquisto for a question
1:47:03 PM	Mr. Poppell for a response
1:49:16 PM	Senator Benacquisto for a follow up
1:49:28 PM	Mr. Poppell for a response
1:50:25 PM	Mr. Poppell to close
1:50:31 PM	Secretary Poppell's nomination is reported favorably
1:51:11 PM	Take up Tab 2 SB 616
1:51:23 PM	Senator Hutson to present Senator Perry's bill
1:52:20 PM	Take up Amendment 124074
1:52:33 PM	Senator Hutson for an explanation
1:53:16 PM	Questions on the Amendment?
1:53:35 PM	Senator Benacquisto for a question on the amendment
1:54:12 PM	Senator Hutson for a response
1:54:40 PM	Appearance cards
1:54:44 PM	Alan Douglas waives in support of the Amendment
1:55:03 PM	Senator Bradley of questions for Alan Douglas
1:55:47 PM	Alan Douglas for a response
1:56:55 PM	Senator Bradley for a follow up
1:57:01 PM	Alan Douglas for an answer
1:57:07 PM	Senator Bradley for a follow up
1:57:19 PM	Alan Douglas for a response
1:57:36 PM	Senator Bradley for a question
1:57:45 PM	Alan Douglas for a response
1:57:54 PM	Senator Brandes for a question of alan Douglas
1:58:07 PM	Alan Douglas for a response
1:58:15 PM	debate on the amendment?
1:58:24 PM	Senator Hutson waives close
1:58:29 PM	The amendment is adopted
1:58:35 PM	back on the bill as amended
1:58:39 PM	questions?
1:58:42 PM	Senator Bradley for a question
1:59:00 PM	Appearance cards
1:59:22 PM	Zana Raybon
1:59:36 PM	Senator Bradley for a question
1:59:45 PM	Zana Raybon for a response
1:59:54 PM	Senator Bradley for a question of Zana Raybon
2:00:04 PM	Zana Raybon for a response

2:00:34 PM Senator Brandes for a question of Zana Raybon
2:00:44 PM Zana Raybon for a response
2:00:53 PM Senator Brandes for a question
2:01:02 PM Zana Raybon for an answer
2:01:15 PM Senator Hutson for a comment
2:01:33 PM Debate?
2:01:49 PM Senator Brandes for an additional question of Zana Raybon
2:02:07 PM Zana Raybon for a response
2:02:50 PM Debate?
2:02:59 PM Senator Hutson waives close
2:03:06 PM CS/SB 616 is reported favorably
2:03:27 PM Take up Tab 6 SB 1128 by Senator Diaz
2:03:44 PM Senator Braynon to present the bill
2:04:44 PM Questions?
2:04:53 PM Appearance forms
2:04:56 PM Kate Macfall waives in support
2:05:07 PM kelly Mallette waives in support
2:05:17 PM Debate?
2:05:20 PM Senator Braynon waives close
2:05:27 PM SB 1128 is reported favorably
2:05:46 PM Take up Tab 3 SB 902 by Senator Perry
2:06:05 PM Senator Hutson to present the bill
2:06:50 PM Questions?
2:06:52 PM Leader Gibson for a question
2:07:20 PM Senator Hutson for a response
2:07:45 PM Senator Passidomo for a question
2:08:07 PM Senator Hutson for a response
2:08:51 PM Appearance Cards
2:08:59 PM French Brown
2:10:09 PM Leader Gibson for a question of French Brown
2:10:19 PM French Brown for a response
2:11:34 PM Leader Gibson for a question
2:12:02 PM French Brown for a response
2:12:45 PM Senator Passidomo for a question of French Brown
2:13:02 PM French Brown for a response
2:13:42 PM Trey Goldman waives in support
2:13:48 PM Debate?
2:13:53 PM Senator Hutson to close
2:14:31 PM SB 902 is reported favorably
2:14:57 PM Take up Tab 7 SB 1118
2:15:09 PM Senator Hutson for an explanation
2:15:37 PM Take up Amenmdment 221316
2:16:18 PM Senator Hutson for an explanation
2:16:26 PM Questions on the Amendment?
2:16:38 PM Senator Passidomo for a question
2:16:50 PM Senator Hutson for a response
2:17:10 PM Appearance cards
2:17:20 PM Cam Fentriss waives in support of the Amendment
2:17:34 PM Cam Fentriss waives in support again
2:17:43 PM Debate?
2:17:46 PM Sen Hutson waives close
2:17:52 PM Amendment is reported favorably
2:17:57 PM back on the bill as amended
2:18:03 PM Rusy Payton waives in support
2:18:16 PM Caroll Bowen waives in support
2:18:29 PM Debate?
2:18:31 PM Senator Hutson waives close
2:18:43 PM CS/SB 1118 is reported favorably
2:18:55 PM Take up Tab 4 SB 7064
2:19:10 PM Senator Albritton for an explanation
2:21:14 PM Questions?
2:21:19 PM Senator Brandes for a question

2:21:25 PM	Senator Albritton for a response
2:22:05 PM	Senator Brandes for a question
2:22:11 PM	Senator Bradley for a follow up question
2:22:26 PM	Staff for a response
2:22:41 PM	Senator Albritton for a response
2:23:26 PM	Senator Bradley for a question
2:23:32 PM	Senator Bradley for a question
2:23:33 PM	Senator Albritton for a response
2:24:40 PM	Seantor Passidomo for a question
2:25:07 PM	Senator Albritton for a response
2:27:27 PM	Senator Passidomo for a follow up
2:27:48 PM	Senator Albrotton for a response
2:30:14 PM	Senator Pasidomo for a question
2:30:24 PM	Senator Albritton for a response
2:32:08 PM	Leader Gibson for a question
2:33:11 PM	Senator Albritton for a response
2:35:17 PM	Leader Gibson for a question
2:35:55 PM	Senator Albritton for a response
2:38:04 PM	Appearance cards
2:38:15 PM	Gladys Delgadillo
2:41:31 PM	Senator Passidomo for a question
2:41:56 PM	Gladys Delgadillo for a response
2:42:32 PM	Senator Hutson for a question
2:43:36 PM	Thomas Herbert
2:46:16 PM	Chair Simpson for a question
2:46:24 PM	Thomas Herbert for a response
2:47:18 PM	Michell Allen
2:49:21 PM	Senator Bradley for a question
2:49:28 PM	Michell Allen for a response
2:50:12 PM	Senator Bradley for a follow up
2:50:44 PM	Michell Allen for a response
2:51:48 PM	Senator Bradley for a follow up
2:51:53 PM	Michelle Allen for a response
2:52:23 PM	Senator Bradley for a question
2:52:50 PM	Michelle Allen for a response
2:53:05 PM	Leader Gibson for a question
2:54:15 PM	Michelle Allen for a response
2:54:24 PM	Leader Gibson for a question
2:54:36 PM	Michelle Allen for a response
2:54:40 PM	Senator Benacquisto for a question
2:54:49 PM	Mechelle Allen for a response
2:55:13 PM	Senator Benacquisto for a follow up
2:55:21 PM	Michelle Allen for a response
2:55:46 PM	Senator Benacquisto for a follow up
2:56:04 PM	Edward Oaksfor waives in oppostion
2:56:15 PM	David Cullen
3:01:01 PM	Kim Ross
3:03:58 PM	Brian Lee
3:05:56 PM	Jonathon Webber waives i opposition
3:06:07 PM	David Mica
3:11:19 PM	Senator Braynon for a question
3:11:51 PM	Presenter for a response
3:12:25 PM	Debate?
3:13:05 PM	Leader Gibson for an additional question of Mr. Micca
3:13:44 PM	Mr. Mica for a response
3:16:12 PM	Leader Gibson for a question
3:16:43 PM	Mr. Mica for a response
3:18:03 PM	Senator Braynon for a question
3:18:12 PM	Mr. Mica for a response
3:19:24 PM	Senator Braynon for a follow up
3:19:36 PM	Mr. Mica for a response
3:20:26 PM	Tom Jones

3:24:09 PM Senator Bradley moves for a time certain vote
3:24:21 PM motion adopted
3:24:24 PM Senator Brandes for a question of Tom Jones
3:24:55 PM Tom Jones for a response
3:25:20 PM Debate?
3:25:25 PM Senator Passidomo in debate
3:26:20 PM Senator Braynon in debate
3:27:52 PM Senator Albritton waives close
3:28:00 PM SB 7064 is reported favorably
3:28:24 PM Senator Farmer votes favorably on CS/SB 616, SB 1128, SB 902, CS/SB 1118
3:28:53 PM Leader gibson votes favorably on CS/Sb 616 and the Secretary's confirmation
3:29:21 PM Senator Braynon votes favorably on CS/SB 1118
3:29:37 PM Meeting Adjourned