

<b>Tab 1 SB 472 by Grimsley; (Similar to H 01439) Charlotte County</b>							
279082	A	S	RCS	RI, Grimsley	Delete L.16:		03/28 04:20 PM

<b>Tab 2 SB 744 by Passidomo; (Similar to CS/H 00653) Community Associations</b>							
846426	A	S	RCS	RI, Passidomo	Delete L.552 - 1096:		03/29 12:03 PM
868700	AA	S	RCS	RI, Hutson	Delete L.532 - 794:		03/29 12:03 PM
147778	A	S	WD	RI, Hutson	Delete L.833 - 1096.		03/29 12:03 PM

<b>Tab 3 SB 1272 by Brandes; (Similar to CS/CS/H 00615) Professional Regulation</b>							
667438	A	S	RCS	RI, Brandes	Delete L.33 - 135:		03/29 08:38 AM

<b>Tab 4 CS/SB 860 by CA, Brandes (CO-INTRODUCERS) Lee; (Compare to H 00901) Florida Building Code</b>							
175948	A	S	RCS	RI, Perry	btw L.316 - 317:		03/29 12:56 PM

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

**REGULATED INDUSTRIES**  
**Senator Hutson, Chair**  
**Senator Hukill, Vice Chair**

**MEETING DATE:** Tuesday, March 28, 2017  
**TIME:** 11:00 a.m.—12:30 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Perry, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 472</b> Grimsley (Similar H 1439)	Charlotte County; Providing space and seating requirements for the issuance of special alcoholic beverage licenses to event centers, etc.  RI      03/28/2017 Fav/CS CA RC	Fav/CS Yeas 10 Nays 0
2	<b>SB 744</b> Passidomo (Similar CS/H 653, Compare H 6027, S 294)	Community Associations; Authorizing an association to adopt rules for posting certain notices on a website; revising provisions relating to required condominium and cooperative association bylaws; prohibiting a board member from voting via e-mail; specifying the voting interests that are eligible to vote to waive or reduce funding of reserves, etc.  RI      03/28/2017 Fav/CS JU RC	Fav/CS Yeas 10 Nays 0
3	<b>SB 1272</b> Brandes (Similar CS/CS/H 615)	Professional Regulation; Citing this act as the "Occupational Opportunity Act"; revising the length of time that an active duty member of the Armed Forces of the United States may remain in good standing with an administrative board under certain circumstances; requiring, rather than authorizing, the Department of Business and Professional Regulation to issue a professional license, rather than a temporary license, to specified applicants, etc.  RI      03/28/2017 Fav/CS MS RC	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Tuesday, March 28, 2017, 11:00 a.m.—12:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 860</b> Community Affairs / Brandes (Compare H 901, CS/H 909, S 7000)	Florida Building Code; Creating an internship path to certification as an inspector or plans examiner; specifying that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract for the services of a building code administrator or building code official; requiring the Florida Building Commission to use the 6th and subsequent editions of the Florida Building Code as the foundation for the development of and updates to the code, etc.  CA 03/14/2017 Fav/CS RI 03/28/2017 Fav/CS AP RC	Fav/CS Yeas 10 Nays 0

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Other Related Meeting Documents

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

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

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/SB 472

INTRODUCER: Regulated Industries Committee and Senator Grimsley

SUBJECT: Charlotte County

DATE: March 28, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	<b>Fav/CS</b>
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 472 authorizes the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation to issue a special alcoholic beverage license to event centers in Charlotte County which have a seating capacity of no more than 800 seats, overall floor space of no more than 10,000 square feet, and derive no less than 51 percent of annual gross income from the sale of event center tickets and food and nonalcoholic beverages that are prepared, served, and consumed on such premises. A special alcoholic beverage license permits the sale of beer, wine, and liquor, and is an exception to the quota license limitation on the number of such license that the division may issue in a county.

The bill defines an “event center” to mean a facility that routinely hosts events for which entrance is granted to customers who have purchased tickets, including, but not limited to, musical concerts and art shows; hosts events sponsored or organized by nonprofit organizations; and which otherwise does not market itself primarily as a food service establishment.

The bill authorizes the division to revoke or suspend any special license for an event center for violations of the Beverage Law and regulations of this state not inconsistent with this act.

SB 472 likely will have a small, positive impact on state government. *See* Fiscal Impact Statement, Section V.

The bill would take effect upon becoming law.

## II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,<sup>1</sup> which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.<sup>2</sup> The division administers and enforces the Beverage Law.<sup>3</sup>

### Quota Licenses

Section 561.20, F.S., limits, by county, the number of alcoholic beverage licenses that may be issued that permit the sale of liquor (distilled spirits) to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquor to one that does permit their sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverage licenses are available without limitation. A person, firm, or corporation may not have an interest, directly or indirectly, in more than 30 percent of the number of quota licenses in a county.<sup>4</sup>

However, there are several exceptions to the number of quota licenses that may be issued in a county. Licenses issued under a quota license exception are referred to “special licenses.”<sup>5</sup> For example, the Beverage Law provides special licenses for consumption on the premises of a:

- Civic center authority or sports arena authority which is authorized by state law or by a local government ordinance, or which is owned by a political subdivision of this state;<sup>6</sup> and
- Performing arts center, provided that any consumption of alcoholic beverages under this license must occur as part of food and beverage service for banquets or receptions, and is in conjunction with an artistic, educational, cultural, promotional, civic, or charitable event occurring on the premises under the authorization of, or offered directly by, the performing arts center.<sup>7</sup>

There are also special licenses for other types of establishments, including hotels and motels,<sup>8</sup> condominiums licensed under ch. 509, F.S.,<sup>9</sup> restaurants that derive at least 51 percent of annual gross revenue from the sale of food and nonalcoholic beverages,<sup>10</sup> specialty centers built on government-owned land,<sup>11</sup> bowling establishments,<sup>12</sup> and airports.<sup>13</sup>

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<sup>1</sup> Section 561.01(6), F.S., provides that the “The Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>2</sup> See s. 561.14, F.S.

<sup>3</sup> Section 561.02, F.S.

<sup>4</sup> Section 561.20(6), F.S.

<sup>5</sup> See s. 561.20, F.S.

<sup>6</sup> Section 561.20(2)(h), F.S.

<sup>7</sup> Section 561.20(2)(j), F.S.

<sup>8</sup> Section 561.20(2)(a)1., F.S.

<sup>9</sup> Sections 561.20(2)(a)2. and 3., F.S.

<sup>10</sup> Section 561.20(2)(a)4., F.S.

<sup>11</sup> Section 561.20(2)(b), F.S.

<sup>12</sup> Section 561.20(2)(c), F.S.

<sup>13</sup> Section 561.20(2)(f), F.S.

Section 565.02(1)(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine, and distilled spirits, regardless of alcoholic content. This includes licensees who are authorized to sell:

- Any alcoholic beverages, where the beverages are sold only in sealed containers for consumption off the premises;
- Any alcoholic beverages, where the sale is limited to consumption on the premises; and
- Any alcoholic beverages for consumption on the premises where off-premises sales are permitted.

The annual fee for a quota license to sell beer, wine, and liquor varies based on county population and ranges from \$624 to \$1,820.<sup>14</sup> Upon the approval of a new license by the division, the licensee must pay a one-time fee of \$10,750.<sup>15</sup> For the purchase and transfer of an existing license, a licensee must pay a transfer fee (not to exceed \$5,000).

### III. Effect of Proposed Changes:

Notwithstanding the quota license limitation in s. 561.20, F.S., the bill authorizes the division to issue a special license to event centers in Charlotte County which have a seating capacity of no more than 800 seats, overall floor space of no more than 10,000 square feet, and derive no less than 51 percent of annual gross income from the sale of event center tickets and food and nonalcoholic beverages that are prepared, served, and consumed on such premises.

The bill defines an “event center” to mean a facility that routinely hosts events for which entrance is granted to customers who have purchased tickets, including, but not limited to, musical concerts and art shows; hosts events sponsored or organized by nonprofit organizations; and which otherwise does not market itself primarily as a food service establishment.

The division may revoke or suspend any such license for violations of the Beverage Law and regulations of this state not inconsistent with this act.

The bill would take effect upon becoming law.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>14</sup> See s. 565.02(1), F.S.

<sup>15</sup> Section 561.19(5), F.S.

**D. Other Constitutional Issues:**

The Florida Constitution provides that a Notice of Intent to seek enactment of a special law must be published in the manner provided by general law before a special law may be passed.<sup>16</sup> The publication requirement does not apply if the special law is conditioned upon approval by vote of the electors of the area affected.

Section 11.02, F.S., requires that an identical notice of intent to seek a special enactment of a special law must be published in each affected county or counties in a newspaper published in or circulated throughout the county or counties. The notice of intent must be published at least 30 days before introduction of the proposed law into the Legislature or, if there is no newspaper circulated throughout or published in the county, by posting for at least 30 days at not less than three public places in the county or each of the counties, one of which places shall be at the courthouse in the county or counties where the matter or thing to be affected by such legislation shall be situated. The notice of intent must state the substance of the contemplated law.

The Notice of Intent for SB 472 was published in the January 24, 2017 issue of the Charlotte Sun and Englewood Sun, newspapers published in Charlotte County, Florida.<sup>17</sup> SB 472 was introduced on March 7, 2017.

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

None.

**B. Private Sector Impact:**

An applicant for an alcoholic beverage license for an event center in Charlotte County, for renewal of such license, would pay an annual license tax of \$1,820.

**C. Government Sector Impact:**

The number of locations that would qualify as an event center under the bill is not known. An applicant for an alcoholic beverage license for an event center in Charlotte County, and for renewal of such license, would pay an annual license tax of \$1,820.<sup>18</sup>

Current law requires that 24 percent of the license tax collected for a license issued in a county under ss. 561.14(6), 563.02, 564.02, 565.02(1), (4), and (5), and 565.03, F.S., be

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<sup>16</sup> FLA. CONST. art. III, s. 10.

<sup>17</sup> A copy of the Affidavit evidencing the publication of the Notice of Intent is on file with the Senate Regulated Industries Committee. Section 11.03, F.S., provides the form for the proof of publication of the Notice of Intent.

<sup>18</sup> Section 565.02(1), F.S., provides the applicable license tax for alcoholic beverage licenses for the sale of beer, wine and liquor. The amount of the license tax varies on the population of the county. The population estimate for Charlotte County, as of April 1, 2016, is 170,450. See Bureau of Economic and Business Research, University of Florida, *Florida Estimates of Population 2016*, April 1, 2016. The applicable license tax is \$1,820 for a license issued in a county with a population over 100,000.

returned to the appropriate county tax collector.<sup>19</sup> Thirty-eight percent of the license taxes collected within an incorporated municipality pursuant to these provisions must be returned to the appropriate municipal officer.<sup>20</sup>

As a result, net state revenues from alcoholic beverage license fees may increase by approximately \$691 for each license issued to an event center in Charlotte County during State Fiscal Year 2017-2018; counties likely will receive \$437 in additional revenue and municipalities will receive \$692 in additional revenue, per license during the same period.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

**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 Regulated Industries on March 28, 2017:**

The committee substitute clarifies that 51 percent of the event center's gross revenue from non-alcoholic beverage sales is based on annual revenue.

**B. Amendments:**

None.

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

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<sup>19</sup> Section 561.342(1), F.S.

<sup>20</sup> Section 561.342(2), F.S.







279082

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/28/2017	.	
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	.	
	.	

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The Committee on Regulated Industries (Grimsley) recommended the following:

**Senate Amendment**

Delete line 16  
and insert:  
than 51 percent of annual gross income from the sale of event center

AFFIDAVIT

STATE OF FLORIDA,  
COUNTY OF CHARLOTTE

BEFORE ME, the undersigned authority, personally appeared Holly Vinacco, who, on the solemn oath or affirmation, attests that a notice stating the substance of a contemplated law or proposed bill relating to the State of Florida issuing special alcohol beverage licenses to Event Centers in Charlotte County was published in the issue of January 24, 2017 of the Charlotte Sun and the Englewood Sun, newspapers published in Charlotte County, Florida, where the matter or thing to be affected by the contemplated law is situated, and that a copy of the published notice is attached and made a part of this affidavit.

(Signed) Holly Vinacco

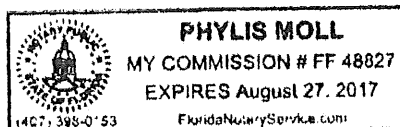
(Title) Customer Service

Sworn to or affirmed and subscribed before me this 24<sup>th</sup> day of January, 2017

Phylis Moll  
Notary Public State of Florida at Large

My commission expires August 27, 2017

**NOTICE OF INTENT TO SEEK LEGISLATION**  
TO WHOM IT MAY CONCERN:  
Notice is hereby given of intent to apply to the 2017 Florida Legislature, in the 2017 regular or any special or extended legislative sessions, for passage of an act relating to Charlotte County, authorizing the state of Florida to issue special alcohol beverage licenses to Event Centers in Charlotte County including modifications of current statutory criteria as an exception to general law such as providing space requirements, beverage percentage requirements, seating requirements and other requirements.  
Publish: January 24, 2017  
339038 3409223



**The Sun**  
**23170 Harborview Road**  
**Port Charlotte, FL 33980**

**01/20/17**

**NOTICE OF INTENT  
 TO SEEK LEGISLATION**

TO WHOM IT MAY CONCERN:  
 Notice is hereby given of intent to apply to the 2017 Florida Legislature, in the 2017 regular or any special or extended legislative sessions, for passage of an act relating to Charlotte County, authorizing the state of Florida to issue special alcohol beverage licenses to Event Centers in Charlotte County including modifications of current statutory criteria as an exception to general law such as providing space requirements, beverage percentage requirements, seating requirements and other requirements.  
 Publish: January 24, 2017  
 339038 3409223

Phone:(941)206-1000 Fax:(941)629-2085 Website: [www.sunnewspapers.net](http://www.sunnewspapers.net)  
 Email: [custserv@sun-herald.com](mailto:custserv@sun-herald.com)

Date: 01/20/17	Ad Taker:AFREEMAN	Agate Lines: 22
Ad Date: 01/24/17	Sales Person:200	Depth: 2.403
Class: 3138	Words: 92	Inserts: 1
Ad ID: 3409223	Lines: 23	Blind Box:

Account: 339038	
JERRY PAUL, ESQ. LEGAL NOTICES	
Description: Beverage Licenses to event centers Telephone: (941) 206-1025	

Other Charges:	\$0.00	Gross:	\$33.00
Discount:	\$0.00		
Surcharge:	\$0.00	Paid Amount:	- \$33.00
Credits:	\$0.00		
Bill Depth:	2.403	Amount Due:	\$0.00

Publication	Start	Stop	Inserts	Cost
Legal Advertising	01/24/17	01/24/17	1	\$33.00

**invoice**

Ad Note:  
 Submitted by Jerry Paul

Please remit to:

**The Sun**  
**23170 Harborview Road**  
**Port Charlotte, FL 33980**

*We Appreciate Your Business!*  
*Thank You!*



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** March 14, 2017

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I respectfully request that **Senate Bill #472**, relating to Charlotte County, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

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Senator Denise Grimsley  
Florida Senate, District 26

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

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

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/SB 744

INTRODUCER: Regulated Industries Committee and Senator Passidomo

SUBJECT: Community Associations

DATE: March 28, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	<b>Fav/CS</b>
2.			JU	
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 744 revises requirements related to the governance and operation of condominium, cooperative, and homeowners' associations.

The bill revises the requirement that high-rise condominium and cooperative buildings must be retrofitted with a fire safety system and an engineered lifesafety systems (ELSS). The bill:

- Permits unit owners in high-rise buildings to vote to forego retrofitting for a fire safety system and an engineered lifesafety system (ELSS);
- Provides that an association or unit owner is not required to retrofit association property, common elements, or units with a fire sprinkler system or ELSS if the building is 75 feet or less in height;
- Exempts commercial and mixed-use condominiums (but not cooperatives) from the requirement to retrofit a building less than 75 feet in height;
- Extends the time for an association to apply for a building permit, if it has not completed retrofitting or voted to forego retrofitting, from December 31, 2019, to December 31, 2021;
- Requires that a licensed professional engineer, instead of a licensed contractor or electrician, provide the certificate of compliance for a condominium; and
- Revises the process for the members to vote to forego retrofitting a building.

The bill repeals the provisions that require a condominium, cooperative, and homeowners' associations of fewer than 50 units or parcels, regardless of the association's annual revenues, to

prepare a report of cash receipts and expenditures instead of a compiled, reviewed, or audited financial statement.

The bill:

- Clarifies that approval by the voting interests in a condominium is required before any material alterations or substantial additions to common elements or association property are commenced;
- Requires condominium associations to maintain for one year as an official record all bids and contracts for work performed, as is currently required for cooperative and homeowners' associations;
- Requires condominium and cooperative associations to maintain electronic records relating to voting as an official record;
- Repeals the prohibition against a condominium association waiving financial reporting requirements for more than three consecutive years;
- Permits condominium associations to provide electronic notices of meetings;
- Repeals the July 1, 2018, deadline for the classification as a condominium bulk buyer or bulk assignee; and
- Permits members of the board of administration of cooperative and homeowners' associations to communicate by e-mail, as is allowed for condominium associations.

For cooperative associations, the bill:

- Requires that notice of any board meeting in a cooperative association in which regular or special assessments against unit owners are to be considered must specifically state that the assessments will be considered and provide the estimated amount and description of the purposes for such assessments.
- Prohibits co-owners of a unit in a residential cooperative association of more than 10 units from serving on the board at the same time, unless the co-owners own more than one unit or there are not enough eligible candidates;
- Provides that an officer or director of a cooperative association is deemed to have abandoned the office if he or she is more than 90 days delinquent in a monetary obligation due to the association; and
- Provides that, if provided in the cooperative association's bylaws, the cost of bulk contracts for communication services, information services, or internet services is deemed a common expense of the cooperative association, and that such contracts may be canceled by a majority vote of the voting interests.

Regarding homeowners' associations, the bill also:

- Requires that an association hold a special meeting of the parcel owners if the board adopts an annual budget that requires assessments that exceed 115 percent of the assessments for the preceding fiscal year;
- Permits the parcel owners to adopt a substitute budget at the special meeting by a majority approval of all voting interests; and
- Provides that, if the developer controls the board, assessments may not exceed 115 percent of the prior fiscal year unless the assessments are approved by a majority of all voting interests.
- Prohibits write-in nominations for elections to the board in certain circumstances; and

- Provides a clarification of existing law that the accrual of interest on unpaid assessments, and the application of payments to interest, late fees, collection costs and associated reasonable attorney fees, and the delinquent assessment, in that order of priority, controls over any restrictive endorsement, designation, or instruction placed on or accompanying a payment, including any purported accord and satisfaction (that the parcel owner paid a lesser amount in full satisfaction of the amount due) pursuant to s. 673.3111, F.S.

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

## II. Present Situation:

### Division of Florida Condominiums, Timeshares, and Mobile Homes

Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division may investigate complaints and enforce compliance with chs. 718 and 719, F.S., with respect to associations that are still under developer control.<sup>1</sup> The division also has the authority to investigate complaints against developers involving improper turnover or failure to transfer control to the association.<sup>2</sup> After control of the condominium is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.<sup>3</sup> For cooperatives, the division's jurisdiction extends to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units.<sup>4</sup>

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers and associations.<sup>5</sup>

If the division has a reasonable cause to believe that a violation of any provision of ch. 718, F.S., ch. 719, F.S., or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. In addition, the division is authorized to petition a court to appoint a receiver or conservator to implement a court order, or to enforce of an injunction or temporary restraining order. The division may also impose civil penalties.<sup>6</sup>

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<sup>1</sup> Sections 718.501(1) and 719.501(1), F.S.

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

<sup>3</sup> Section 718.501(1), F.S.

<sup>4</sup> Section 718.501(1), F.S.

<sup>5</sup> Sections 718.501(1) and 719.501(1), F.S.

<sup>6</sup> *Id.*



Unlike condominium and cooperative associations, homeowners' associations are not regulated by a state agency. Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

In regards to homeowners' associations, the division's authority is limited to arbitration of recall election disputes.<sup>7</sup>

### **Condominium**

A condominium is a "form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements."<sup>8</sup> A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.<sup>9</sup> A declaration is similar to a constitution in that it:

Strictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.<sup>10</sup>

A condominiums is administered by a board of directors referred to as a "board of administration."<sup>11</sup>

### **Cooperative Associations**

Section 719.103(12), F.S., defines a "cooperative" to mean:

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<sup>7</sup> See s. 720.306(9)(c), F.S.

<sup>8</sup> Section 718.103(11), F.S.

<sup>9</sup> Section 718.104(2), F.S.

<sup>10</sup> *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

<sup>11</sup> Section 718.103(4), F.S.

“that form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.”

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative unit’s occupants receive an exclusive right to occupy the unit. The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.<sup>12</sup>

### **Homeowners’ Associations**

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners’ associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.<sup>13</sup>

A “homeowners’ association” is defined as a “Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.”<sup>14</sup> Unless specifically stated to the contrary, homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.<sup>15</sup>

Homeowners’ associations are administered by a board of directors whose members are elected.<sup>16</sup> The powers and duties of homeowners’ associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly-adopted amendments to these documents.<sup>17</sup> The officers and members of a homeowners’ association have a fiduciary relationship to the members who are served by the association.<sup>18</sup>

### **Chapters 718, 719, and 720, F.S.**

Chapter 718, F.S., relating to condominiums, ch. 719, F.S., relating to cooperatives, and ch. 720, F.S., relating to homeowners’ associations, provide for the governance of these associations. For example, the chapters delineate requirements for notices of meetings,<sup>19</sup> recordkeeping

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<sup>12</sup> See ss. 719.106(1)(g) and 719.107, F.S.

<sup>13</sup> See s. 720.302(1), F.S.

<sup>14</sup> Section 720.301(9), F.S.

<sup>15</sup> Section 720.302(5), F.S.

<sup>16</sup> See ss. 720.303 and 720.307, F.S.

<sup>17</sup> See ss. 720.301 and 720.303, F.S.

<sup>18</sup> Section 720.303(1), F.S.

<sup>19</sup> See s. 718.112(2), F.S., for condominiums, s. 719.106(2)(c), F.S., for cooperatives, and s. 720.303(2), F.S., for homeowners’ associations.

requirements, including which records are accessible to the members of the association,<sup>20</sup> and financial reporting.<sup>21</sup> Timeshare condominiums are generally governed by ch. 721, F.S., the “Florida Vacation Plan and Timesharing Act.”

### **Official Records**

Section 718.111(12)(c), F.S., for condominium associations, s. 719.104(2), F.S., for cooperative associations, and s. 720.303(5), F.S., for homeowners’ associations, provide for the maintenance of the official records of an association. These provisions delineate the types of records that the association must maintain and identify types of records that are and are not accessible to their members. Condominium, cooperatives, and homeowners’ associations are required to maintain official records for at least seven years.<sup>22</sup>

Condominium and cooperative associations must maintain as an official record all bid and contracts for work to be performed.<sup>23</sup> Cooperative and homeowners’ associations are required to maintain these bids and contracts for one year.<sup>24</sup>

Condominium and cooperative associations must maintain as an official record the ballots, sign-in sheets, voting proxies, and all other papers relating to voting by unit owners. These records must be maintained for one year from the date of the election, vote, or meeting to which the document relates.<sup>25</sup> Homeowners’ association are not required to maintain such a record.<sup>26</sup>

### **Financial Reporting**

Sections 718.11(13), 719.104(4), and 720.303(7), F.S., provide the financial reporting requirements for condominium, cooperative, and homeowners’ associations, respectively. These provisions for each association type are comparable.

Within 90 days following the end of the fiscal or calendar year, or annually on such date as provided in the association’s bylaws, the board must complete, or contract with a third party to complete the financial statements. Within 21 days after the financial report is completed by the association or received from the third party, but no later than 120 days after the end of the fiscal year, the board must provide each member of the association a copy of the financial report or a notice that it is available at no charge upon a written request.

Associations may not waive the financial reporting requirements for more than three consecutive years. The type of financial reporting that an association must perform is based on the association’s total annual revenue. An association with total annual revenue of:

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<sup>20</sup> See s. 718.111(12), F.S., for condominiums, s. 719.104(2), F.S., for cooperatives, and s. 720.303(4), F.S., for homeowners’ associations.

<sup>21</sup> See s. 718.111(13), F.S., for condominiums, s. 719.104(4), F.S., for cooperatives, and s. 720.303(7), F.S., for homeowners’ associations.

<sup>22</sup> See s. 718.111(13)(b), F.S., for condominiums, s. 719.104(2)(b), F.S., for cooperatives, and s. 720.303(5), F.S., for homeowners’ associations.

<sup>23</sup> Sections 718.111(12)(a)11.d., 719.104(2)(a)9.d., and 720.303(4)(i), F.S., respectively.

<sup>24</sup> See ss. 719.104(2)(a)9.d., and 720.303(4)(i), F.S., respectively.

<sup>25</sup> Sections 718.111(12)(a)12., and 719.104(2)(a)10., F.S., respectively.

<sup>26</sup> See s. 720.303(4), F.S.

- Less than \$150,000 must prepare a report of cash receipts and expenditures.
- Between \$150,000 and less than \$300,000 must prepare compiled financial statements.<sup>27</sup>
- At least \$300,000 but less than \$500,000 must prepare reviewed financial statements.<sup>28</sup>
- \$500,000 or more must prepare audited financial statements.<sup>29</sup>

An association of fewer than 50 units or parcels, regardless of the association's annual revenues, must prepare a report of cash receipts and expenditures. Provisions specify the information that must be disclosed in the report of cash receipts and expenditures. Cooperative and homeowners' associations may provide otherwise in their governing documents.

If approved by a majority of voting interests present at a duly called meeting, an association may prepare or cause to be prepared:

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

### **Notice of Board Meetings**

Condominium and cooperative associations are required to notice all board meetings by posting a notice in a conspicuous place on the cooperative's or condominium's property for at least 48 hours. The notice must be posted 14 days before meetings when a nonemergency special assessment or an amendment to the rules regarding unit use is to be considered.<sup>30</sup>

### **Fire Safety Certificate of Compliance — Condominium and Cooperative Associations**

#### ***Florida Fire Prevention Code***

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer (CFO) as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety and has the responsibility to minimize the loss of life and property in this state due to fire. The State Fire Marshal: regulates, trains, and certifies fire service personnel and fire safety inspectors;

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<sup>27</sup> A compiled financial statement is an accounting service based on information provided by the entity that is the subject of the financial statement. A compiled financial statement is made without a Certified Public Accountant's (CPA) assurance as to conformity with GAAP. Compiled financial statements must conform to the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services. J.G. Siegel and J.K. Shim, *Barron's Business Guides, Dictionary of Accounting Terms*, 3<sup>rd</sup> ed. (Barron's 2000).

<sup>28</sup> A reviewed financial statement is an accounting service that provides a board of directors and interested parties some assurance as to the reliability of financial data without the CPA conducting an examination in accordance with GAAP. Reviewed financial statements must comply with AICPA auditing and review standards for public companies or the AICPA review standards for non-public businesses. *Id.*

<sup>29</sup> An audited financial statement by a CPA verifies the accuracy and completeness of the audited entities records in accordance with GAAP. *Id.*

<sup>30</sup> Sections 718.112(2)(c) & 719.106(1)(c)(1), F.S.

investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.<sup>31</sup>

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (FFPC),<sup>32</sup> which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules.<sup>33</sup> The State Fire Marshal adopts a new edition of the FFPC every three years.

The fire prevention codes and standards require all existing high-rise buildings,<sup>34</sup> including condominiums and cooperatives, to be retrofitted with fire sprinkler system or with an engineered lifesafety system (ELSS).<sup>35</sup> Florida adopted the requirement to retrofit high-rise, existing multi-family structures after 87 people lost their lives in the MGM Grand Hotel Fire in 1980 and 97 people lost their lives in the San Juan DuPont Plaza fire in 1986.<sup>36</sup>

An ELSS consists of a combination of:

- Partial automatic sprinkler protection;
- Smoke detection alarms;
- Smoke control; or
- Compartmentation or other approved systems, or both.<sup>37</sup>

### ***Condominium and Cooperatives***

Because of the requirement to retrofit, residents of high-rise buildings have claimed that the cost to retrofit a building, which has been issued a certificate of occupancy at the time of completion, would be an unfair cost to residents, many of whom are elderly and live on fixed incomes.<sup>38</sup>

The DBPR estimated that retrofitting a condo would cost from \$595 to \$8,633 per unit. The costs vary depending on a number of factors such as the extent of sprinkler coverage in the building, the age of the building, the size and number of the units, and type of construction.<sup>39</sup>

<sup>31</sup> Section 633.104, F.S.

<sup>32</sup> A copy of the Florida Fire Prevention Code is available at: <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/free-access?mode=view> (last visited March 23, 2017).

<sup>33</sup> Fla. Admin. Code Ch. 69A-60.

<sup>34</sup> A high-rise building is a building where the floor of an occupied story is greater than 75 feet (23 meters) above the lowest level of fire department vehicle access. Section 3.3.30.6, Florida Fire Prevention Code, 5<sup>th</sup> Edition, 2012.

<sup>35</sup> Section 31.3.5.11.2, Florida Fire Prevention Code, 5<sup>th</sup> Edition, 2012

<sup>36</sup> Florida Fire and Sprinkler Association, High-rise Sprinkler retrofit requirement frequently asked questions, [http://www.floridafiresprinkler.com/files/4714/7122/2210/Hi\\_Rise\\_Retrofit\\_-\\_FAQ\\_Final.pdf](http://www.floridafiresprinkler.com/files/4714/7122/2210/Hi_Rise_Retrofit_-_FAQ_Final.pdf) (last visited March 23, 2017).

<sup>37</sup> See ss. 31.3.5.11.4 and 31.3.5.11.1, Florida Fire Prevention Code, 5<sup>th</sup> Edition, 2012.

<sup>38</sup> Bogdanoff, Ellyn Setnor, *Why the Florida Legislature needs to fix condo sprinkler-system problem/Opinion*, February 14, 2017, at <http://www.sun-sentinel.com/opinion/commentary/fl-eboped-engineered-life-safety-20170214-story.html> (last visited March 23, 2017); and Doris, Tony, *Fire Sprinkler retrofit law in county: Hot air or good measure?*, July 3, 2016, at: <http://www.mypalmbeachpost.com/news/local/fire-sprinkler-retrofit-law-county-hot-air-good-safety-measure/90zpFFEtn2F9PzLBtp0bdK/> (last visited March 23, 2017).

<sup>39</sup> Department of Business and Professional Regulation, *Condominium Sprinkler Retrofit Report, A Review of Retrofit Costs and the Impact of Retrofitting on Insurance Premiums*, October 2009, available at: <http://www.myfloridalicense.com/dbpr/lsc/documents/CondominiumSprinklerRetrofitReportOctober2009.pdf> (last visited March 23, 2017).

In 2003, the Legislature amended the requirement to retrofit a residential condominium<sup>40</sup> or cooperative<sup>41</sup> building by providing that:

- Unit owners in residential condominium or cooperative may vote to forego retrofitting a building with a fire sprinkler system or an ELSS. A vote to forego retrofitting required a two-thirds vote of all voting interests in the affected condominium or cooperative association.
- Local governments may not require retrofitting with a fire sprinkler system before the end of 2014.
- However, a residential condominium or cooperative association could not vote to forego retrofitting a sprinkler system in any “common area” of a “high rise” building,<sup>42</sup> including any enclosed hallway, corridor, lobby, stairwell, or entryway.

In 2010, the Legislature again amended these provisions to:

- Provide that unit owners may vote to forego retrofitting a sprinkler system in common areas of a high rise building;
- Reduce the voting requirement to forego retrofitting a sprinkler system from a two-thirds vote to a majority vote;
- Prohibit local government from requiring retrofitting before the end of 2019; and
- Remove the ability of a residential condominium or cooperative to vote to forego retrofitting a building with an ELSS.<sup>43</sup>

Current law provides that:

- An association is not required to retrofit common elements, association property, or units of a residential condominium to meet current building code requirement for a building that has been certified for occupancy by the applicable government entity if the unit owners vote to forego retrofitting by majority vote.
- Local governments may not require completion of retrofitting with a fire sprinkler system before the end of 2019.
- The retrofit requirement applies to all condominium and cooperatives regardless of height.
- Current law only applies to fire sprinkler systems. No statutory authority exist for a condominium or cooperative to forego retrofitting a building with an ELSS.
- The authority to vote to forego retrofitting is limited to residential condominiums and cooperatives.<sup>44</sup>

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<sup>40</sup> Section 718.103(23), F.S., provides that a residential condominium consist of two more units, any of which are intended for use as a private temporary or permanent residence, and that a condominium that contains commercial and residential units is a mixed-use condominium.

<sup>41</sup> Section 719.103(22), F.S., provides that a residential cooperative consist of units intended for use as a private residence. If a cooperative has commercial and residential units then the cooperative is a residential cooperative with respect to those units intended for use as a private residence.

<sup>42</sup> A high-rise building is defined as a building greater than 75 feet in height. The building height is measured from the lowest level of fire department access to the floor of the highest occupiable story. *See*, ch. 2003-14, Laws of Fla., codified as ss 718.112(2)(l) and 719.1055(5), F.S.

<sup>43</sup> Ch.2010-174, s. 3, Laws of Fla., codified as ss. 718.112(2)(l) and 719.1055(5), F.S. (2010).

<sup>44</sup> Sections 718.112(2)(l) and 719.1055(5), F.S.

Condominium and cooperatives that complete retrofitting must receive a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance with the applicable fire and lifesafety code.<sup>45</sup>

A vote to forego retrofitting may be obtained by limited proxy, a personally cast ballot at a membership meeting, or by execution of written consent by the member. The vote is effective when a certificate attesting to the vote is recorded in the county public records.<sup>46</sup>

Written notice of the vote must be mailed or hand delivered to all unit owners. After notice is provided to each owner, a copy must be provided by the current owner to a new owner before closing and by a unit owner to a renter before signing a lease. If there has been a previous vote to forego retrofitting, a vote to require retrofitting may be obtained at a special meeting of the unit owners called by a petition of least 10 percent of the voting interests. Such vote may be called once every three years. Current law does not provide for the use of electronic voting.<sup>47</sup>

A local authority may not require completion of retrofitting with a fire sprinkler system before the end of 2019 for a cooperative or condominium association that has not voted to forego or completed retrofitting.<sup>48</sup>

By December 31, 2016, a cooperative association that has not retrofitted or voted to forego retrofitting is required to initiate an application for a building permit with the local authority demonstrating that the building will be compliant with fire sprinkler system requirements by December 31, 2019.<sup>49</sup>

The DBPR must require condominium and cooperatives to report the membership vote and recording of the certificate attesting to the vote and, if retrofitting has been undertaken, the per-unit cost of such work. The DBPR must annually report to the State Fire Marshal the number of associations that have elected to forego retrofitting.<sup>50</sup>

### **Distressed Condominium Relief Act**

In 2010, the Legislature enacted, the “Distressed Condominium Relief Act” as part VII of ch. 718, F.S., which defines the extent to which successors to the developer, including a construction lender after a foreclosure and other bulk buyers and bulk assignees of condominium units, may be responsible for implied warranties and other responsibilities of the developer.<sup>51</sup>

The 2010 act created the categories of "bulk buyers" and "bulk assignees."

A “bulk assignee” is a person who acquires more than seven condominium parcels in a single condominium as provided in s. 718.707, F.S., and receives an assignment of some or

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

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Ch. 2010-174, s. 18, Laws of Fla., codified as part VII, ch. 718, F.S.

substantially all of the rights of the developer as an exhibit in the deed or as a separate instrument recorded in the public records in the county where the condominium is located.<sup>52</sup>

A “bulk buyer” is a person who acquires more than seven condominium parcels in a single condominium but who does not receive an assignment of developer rights other than the rights specified in the act to conduct sales, leasing, and marketing activities within the condominium. A bulk buyer is exempt from payment of working capital contributions and from rights of first refusal.<sup>53</sup>

Section 718.704(1), F.S., provides that a bulk assignee assumes all the duties and responsibilities of the developer, and specifies obligations for which the bulk assignee is not liable.

Section 718.707, F.S., specifies a time limit for classification as a bulk assignee or bulk buyer. A person acquiring condominium parcels may not be classified as a bulk assignee or a bulk buyer unless the condominium parcels were acquired prior to July 1, 2018. The date of acquisition is based on the date that the deed or other instrument of conveyance is recorded.

The Act was created in reaction to the "massive downturn in the condo market which has occurred throughout the state" and was not intended to be open-ended. Rather, the intent of the Legislature was to enact the relief only for a specific and defined period:

The Legislature further finds and declares that this situation cannot be open-ended without potentially prejudicing the rights of unit owners and condo associations, and thereby declares that the provisions of this part may be used by purchasers of condo inventory for only a specific and defined period.<sup>54</sup>

Originally, the time limitation for classification as a bulk assignee or bulk buyer ended July 1, 2012.<sup>55</sup> In 2012, the Legislature extended the time limitation to July 1, 2015.<sup>56</sup> In 2014, the legislature again amended s. 718.707, F.S., to extend the time limitation to July 1, 2016.<sup>57</sup>

In 2015, the Legislature further amended s. 718.707, F.S., to provide that a person acquiring condominium parcels may not be classified as a bulk assignee or bulk buyer unless the parcels were acquired between July 1, 2010, and July 1, 2018.

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<sup>52</sup> Section 718.703(1), F.S.

<sup>53</sup> Section 718.703(2), F.S.

<sup>54</sup> Section 718.702, F.S.

<sup>55</sup> Ch. 2010-174, s. 18, Laws of Fla.

<sup>56</sup> Ch. 2012-61, s. 36, Laws of Fla.

<sup>57</sup> Ch. 2014-74, s. 5, Laws of Fla.



## **Budgets and Reserve Accounts - Homeowners' Associations**

### ***Budgets***

Homeowners' associations must prepare an annual budget for the coming year that includes estimated revenues and expenses, estimated surplus or deficits, and sets out all fees and charges paid for by the association for recreational amenities.<sup>58</sup>

The board of a condominium association is required by current law to call a special meeting if the board adopts an annual budget that requires an assessment that exceeds 115 percent of assessments for the preceding fiscal year. The condominium board must conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The meeting must take place within 60 days of the adoption of the annual budget, and the notice must be delivered by mail or hand delivery at least 14 days before the meeting.<sup>59</sup> Homeowners' associations are not required to follow such a process.

### ***Reserve Accounts***

A reserve account is an account into which an association collects periodic advance payments to cover future anticipated and specific capital expenditures and deferred maintenance items. A homeowners' association must prepare an annual budget that sets out:

- The annual operating expenses;
- The estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year; and
- All fees or charges paid for by the association for recreational amenities.<sup>60</sup>

The association is required to provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member.<sup>61</sup>

The budget may include reserve accounts for capital expenditures and deferred maintenance for which the association is responsible. If the reserve account is not established by developer or by a vote of the members, the account must be funded pursuant to the requirements of the governing documents. If the reserve account is established by the developer or by a vote of the members, the reserves shall be determined, maintained, and waived in the manner provided in s. 720.303(6), F.S. A majority of the total voting interests of the association may vote to terminate a reserve account.<sup>62</sup> The budget of the association must include a notice, as specified in current law, regarding whether the budget includes or does not include reserve accounts.<sup>63</sup>

The members may elect to establish a reserve account by an affirmative vote of a majority of the total voting interests of the association at a duly called meeting of the membership or by the

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<sup>58</sup> Section 720.303(6)(a), F.S.

<sup>59</sup> Section 718.112(2)(e)2.a., F.S.

<sup>60</sup> Section 720.303(6)(a), F.S.

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

<sup>62</sup> Section 720.303(6)(b), F.S.

<sup>63</sup> Section 720.303(6)(c), F.S.

written consent of a majority of the total voting interests. The approval to establish reserve accounts must designate the components for which the reserve accounts are established.<sup>64</sup>

The homeowners' association must compute the amount in the reserve account with a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association must also annually adjust the replacement reserve assessments to take into account any changes in estimates of cost or useful life of a reserve item.<sup>65</sup>

A homeowners' association may vote to waive funding, reduce funding, or terminate a reserve account by a majority vote of the voting interests. A vote to waive or reduce reserves is applicable only as to one fiscal year.<sup>66</sup>

There are two types of reserve accounts:

- Separate reserve accounts for each asset; and
- Pooled reserve accounts for two or more assets.<sup>67</sup>

Current law provides funding formulas for separate and pooled reserve accounts.<sup>68</sup> Reserve funds and any interest accruing on the funds must remain in the reserve account or accounts and must be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a majority vote at a meeting at which a quorum is present. Prior to turnover of control of an association by a developer to parcel owners, the developer-controlled association cannot vote to use reserves for purposes other than those for which they were intended without the approval of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association.<sup>69</sup>

### **Elections – Homeowners' Associations**

Homeowners' associations are administered by a board of directors whose members are elected.<sup>70</sup> An association is required to hold board of director elections at its annual meeting or as provided in its governing documents.<sup>71</sup> Elections are conducted in accordance with the procedures set forth in the governing documents of the association. An election is not required unless more candidates are nominated than vacancies exist.<sup>72</sup>

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<sup>64</sup> Section 720.303(6)(d), F.S.

<sup>65</sup> Section 720.303(6)(e), F.S.

<sup>66</sup> Section 720.303(6)(f), F.S.

<sup>67</sup> See s. 720.303(6)(g), F.S.

<sup>68</sup> Section 720.303(6)(g), F.S. See also Division of Florida Condominiums, Timeshares, and Mobile Homes, Budgets & Reserves Schedules: A Self-Study Training Manual, available at:

<http://www.myfloridalicense.com/dbpr/lsc/documents/BudgetsandReserveSchedules.pdf> (last visited March 24, 2017).

<sup>69</sup> Section 720.303(6)(h), F.S.

<sup>70</sup> ss. 720.303 & 720.307, F.S.

<sup>71</sup> Section 720.306(9)(a), F.S.

<sup>72</sup> *Id.*

**Assessments – Homeowners’ Associations**

Homeowners’ associations may impose assessments on owners. Assessments and installments of assessments that are not timely paid accrue interest. Any payment received by an association for payment of an assessment or installment that accrued interest will first be applied to the interest accrued, then to any administrative late fee, then to any costs and reasonable attorney fees, and then to the delinquent assessment.<sup>73</sup>

**III. Effect of Proposed Changes:****Official Records – Condominium and Cooperative Associations**

The bill amends s. 718.111(12)(a)11.d., F.S., to require condominium associations to maintain for one year as an official record all bids and contracts for work performed. The bill conforms to the requirement for cooperative and homeowners’ associations in ss. 719.104(2)(a)9.d., and 720.303(4)(i), F.S., respectively.

The bill amends s. 718.111(12)(a)11.d., and 719.104(2)(a)10., F.S., to include electronic records relating to voting to the list of official records that must be kept by a condominium or cooperative association.

**Financial Reporting – Condominium, Cooperative, and Homeowners’ Associations**

The bill repeals ss. 718.111(13)(b)2., 719.104(4)(c)2., and 720.303(7)(b)2., F.S., the provisions that require condominium, cooperative, and homeowners’ associations of fewer than 50 units, regardless of the association’s annual revenues, to prepare a report of cash receipts and expenditures.

The bill also amends s. 718.111(13)(d), F.S., to repeal the prohibition against an condominium association waiving financial reporting requirements for more than three consecutive years. The bill does not repeal an identical provision related to financial reporting by a cooperative association in s. 719.104(4)(b)4., F.S. Current law does not provide a comparable provision for homeowners’ associations.

**Notice of Board Meetings**

The bill amends s. 718.112(2)(c)1., F.S., to provide that, in addition to any of the authorized means of providing notice of a board meeting, a condominium association may, by rule, adopt a procedure for conspicuously posting meeting notices and the agenda on a website serving the association, including a provision that the association send an electronic notice providing a hypertext link to such website where the notice is posted.

**Fire Safety Certificate of Compliance — Condominium and Cooperative Associations**

The bill amends s. 718.112(2)(l), F.S., to revise the fire safety requirements for condominium associations to require that a licensed professional engineer, instead of a licensed contractor or

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<sup>73</sup> Section 720.3085(3), F.S.

electrician, must provide the certificate of compliance.<sup>74</sup> However, the bill retains the provision in s. 719.1055(5), F.S., as to cooperatives, that requires a licensed contractor or electrician to provide the certificate of compliance.<sup>75</sup>

For condominium and cooperative associations, the bill amends ss. 718.112(2)(l) and 719.1055(5), F.S., to:

- Permit a vote to forego retrofitting for a fire safety system and an engineered lifesafety systems (ELSS);
- Provide that an association or unit owner is not required to retrofit association property, common elements, or units with fire sprinkler system or ELSS if the building is 75 feet or less in height;
- Exempt commercial and mixed-use condominiums (but not cooperatives) from the requirement to retrofit a building less than 75 feet in height;
- Prohibit a local authority from requiring retrofitting of a fire sprinkler system or ELSS until on or after January 1, 2022; and
- Extend the time for an association to apply for a building permit, if it has not completed retrofitting or voted to forego retrofitting, from December 31, 2019, to December 31, 2021.

Regarding the process used by an association to vote to forego the requirement to retrofit, the bill:

- Permits the use of electronic voting in addition to other currently authorized voting methods;
- Provides that the recorded certificate must be signed by an officer or agent of the association;
- Removes the requirement that notice of a vote to forego and vote results be hand delivered or mailed to each unit owner and instead requires that a notice of a vote to forego must be delivered or mailed to each unit owner;
- Provides that failure to timely give unit owners notice of the results of a vote to forego retrofitting does not invalidate the results of the vote, if the notice of the results is provided to the unit owners;
- Repeals the requirement that current owners must provide a copy of the notice of the results of a vote to forego retrofitting to a new unit owner before closing or a renter before signing a lease;
- Permits a majority of the board of directors to hold a special meeting for the unit owners to vote to retrofit if there has already been a vote to forego retrofitting, but the association may not send notice of such a special meeting of the board by electronic transmission;
- Repeals the requirement that a vote to require retrofitting may only be called once every three years if there has already been a previous vote to forego retrofitting; and
- Provides that failure to notify the DBPR of a vote to forego retrofitting and to record the certificate in the county's public records does not invalidate the vote to forego retrofitting.

### **Alterations and Additions to Condominium Property**

The bill amends s. 718.113(2), F.S., to clarify that approval by the voting interests is required before a material alteration or substantial addition to the common elements or association

<sup>74</sup> Section 471.005(5), F.S., provides for the licensing of professional engineers by the Board of Professional Engineers in the DBPR.

<sup>75</sup> Sections 489.115 and 489.511, F.S., provides for the certification of contractors and electrical contractors, respectively.

property is commenced. Current law requires that 75 percent of the total voting interests must approve a material alteration or substantial addition to the common elements or association property, but does not specify when the approval must be obtained.

### **Distressed Condominium Relief Act**

The bill amends s. 718.707, F.S., to remove the deadline of July 1, 2018, for classification as a condominium bulk buyer or bulk assignee.

### **Board Members – Cooperatives**

The bill amends s. 719.106(1)(a)1., F.S., to prohibit co-owners of a unit in a residential cooperative association of more than 10 units from serving on the board at the same time, unless the co-owners own more than one unit or there are not enough eligible candidates.

### **Communications by Board Members - Cooperative and Homeowners' Associations**

The bill amends ss. 719.106(1)(c) and 720.303(2)(a), F.S., to permit members of the board of administration of cooperative and homeowners' associations, respectively, to communicate by e-mail. The board members may not cast votes on association matters via e-mail. Current law permits board members of a condominium association to communicate, but not cast votes, by e-mail.<sup>76</sup>

### **Board Meetings – Cooperative Associations**

Regarding meetings of the board of a cooperative association, the bill also amends s. 719.106(1)(c), F.S., to:

- Require that notice of any meeting at which regular or special assessments against unit owners are to be considered must specifically state that the assessments will be considered and provide the estimated amount and description of the purposes for such assessments;
- Authorize the board to adopt, by rule, a procedure for conspicuously posting a meeting notice and agenda on a website serving the association;
- Require that the association's rule for posting a meeting notice and agenda require that the association must send an electronic notice to members with a hypertext link to the website where the notice is posted; and
- Require that a notice on the association's website must be posted for at least as long as the physical posting of a meeting notice is required (not less than 14 days before a meeting).<sup>77</sup>

### **Director and Officers – Cooperative Associations**

The bill creates s. 719.106(1)(m), F.S., to provide that an officer or director of a cooperative association is deemed to have abandoned the office if he or she is more than 90 days delinquent in a monetary obligation due to the association. Current law provides a comparable provision for officers and directors of condominium and homeowners' associations.<sup>78</sup>

<sup>76</sup> See s. 718.112(2)(c), F.S.

<sup>77</sup> See s. 719.106(1)(c), F.S.

<sup>78</sup> See ss. 718.112(2)(n) and 720.306(9)(b), F.S., respectively.

### **Common Expenses – Cooperative Associations**

The bill amends s. 719.106(1), F.S., to allow, if provided in the cooperative association's bylaws, the cost of a master antenna television system or duly franchised cable television system to be deemed a common expense of the association, including bulk contracts for communication services, information services, or internet services.

The bill also includes contracts for communication services, information services, or internet services among the types of contracts that a cooperative association may cancel by a majority vote of the voting interests.

### **Meeting Notices**

The bill amends s. 720.303(2), F.S., to permit homeowners' associations to provide meeting notices to members by facsimile number or e-mail. Current law permits condominium and cooperative association to electronically transmit meeting notices to members.<sup>79</sup>

### **Budgets Homeowners' Associations**

The bill amends s. 720.303(6), F.S., dealing with the annual budget of a homeowners' association to require that an association conduct a special meeting of the parcel owners if the board adopts an annual budget that requires assessments that exceed 115 percent of the assessments for the preceding fiscal year. The special meeting must be conducted within 60 days of the adoption of the annual budget. The parcel owners may consider and adopt a substitute budget at the special meeting by a majority approval of all voting interests.

If the developer controls the board, assessments may not exceed 115 percent of the prior fiscal year unless the assessments are approved by a majority of all voting interests.

### **Elections – Homeowners' Associations**

The bill amends s. 720.306(9)(a), F.S., to provide that write-in nominations are not permitted if an election is not required because there are either an equal number or fewer qualified candidates to the number of vacancies and nominations from the floor are not required by the bylaws or this section.<sup>80</sup> The candidates will commence service on the board of directors regardless of whether a quorum is attained at the annual meeting.

### **Assessments – Homeowners' Associations**

The bill amends s. 720.3085(3), F.S., to clarify existing law that the accrual of interest on unpaid assessments, and the application of payments to interest, late fees, collection costs and associated reasonable attorney fees, and the delinquent assessment, in that order of priority, controls over any restrictive endorsement, designation, or instruction placed on or accompanying a payment,

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<sup>79</sup> See ss. 718.112(2)(c) and 719.106(1), F.S., respectively.

<sup>80</sup> Section 720.306(9)(a), permits a member to nominate himself or herself as a candidate for the board at a meeting where the election is held.

including any purported accord and satisfaction (that the parcel owner paid a lesser amount in full satisfaction of the amount due) pursuant to s. 673.3111, F.S.<sup>81</sup> A comparable provision is in current law for payments received by a condominium association, but not for payments received by a cooperative.<sup>82</sup>

#### **Effective Date**

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

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 744 may result in a positive impact on property owners in residential and commercial high-rise buildings, if those buildings are exempted from the requirement to retrofit the building with a fire sprinkler system or a lifesafety system.

The bill may cause a negative impact on condominium associations, cooperatives, and homeowners' associations operating fewer than 50 units, if the association is required to hire an accountant to complete a compiled, reviewed, or audited financial statement instead of the report of cash receipts and expenditures required under current law.

Members of a homeowners' association may incur costs related to the requirement in the bill to fund reserve accounts.

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<sup>81</sup> The Florida Uniform Commercial Code (UCC) in s. 673.3111, F.S., provides for the accord and satisfaction of a claim by use of an instrument, which is defined in s. 673.1041, F.S., as an unconditional promise or order to pay a fixed amount of money, with or without interest.

<sup>82</sup> See s. 718.116(3), F.S.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The bill amends s. 718.112(2)(l), F.S., to revise the fire safety requirements for condominium associations to require that a licensed professional engineer, instead of a licensed contractor or electrician, provide the certificate of compliance. However, the bill retains the provision in s. 719.1055(5), F.S., that requires a licensed contractor or electrician to provide the certificate of compliance for cooperative associations. An amendment should be considered if the intent is to apply identical requirements to both types of communities.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 718.111, 718.112, 718.113, 718.707, 719.104, 719.1055, 719.106, 720.303, 720.306, 720.3085.

**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 Regulated Industries on March 28, 2017:

The committee substitute:

- Amends s. 718.113(2), F.S., to clarify that approval by the voting interests is required before any material alterations or substantial additions to common elements or association property is commenced.
- Repeals ss. 719.104(4)(c)2. and 720.303(7)(b)2., F.S., the provisions that require cooperative and homeowners' associations of fewer than 50 units or parcels, regardless of the association's annual revenues, to prepare a report of cash receipts and expenditures.
- Amends s. 719.1055(5), F.S., to retain the requirement that a licensed contractor or electrician must provide the certificate of compliance for a cooperative association.
- Replaces the term "life safety" with the term "lifesafety."
- Amends s. 719.106(1)(a)1., F.S., to prohibit co-owners of a unit in a residential cooperative association of more than 10 units from serving on the board at the same time, unless the co-owners own more than one unit or there are not enough eligible candidates.
- Creates s. 719.106(1)(m), F.S., to provide that an officer or director of a cooperative association is deemed to have abandoned the office if he or she is more than 90 days delinquent in a monetary obligation due to the association.
- Amends s. 719.106(1), F.S., to provide that, if provided in the cooperative association's bylaws, the cost of bulk contracts for communication services,



information services, or internet services are deemed a common expense of the cooperative association, and that such contracts may be canceled by a majority vote of the voting interests.

- Amends s. 720.303(2), F.S., to permit homeowners' associations to provide meeting notices to members by facsimile number or e-mail.
- Removes revisions in the bill to s. 720.303(6), F.S., relating to the maintenance and funding of reserve accounts in the budget of a homeowners' association.

**B. Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2017	.	
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The Committee on Regulated Industries (Passidomo) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 552 - 1096  
and insert:

Section 3. Subsection (2) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters and protection; display of religious decorations.—

(2) (a) Except as otherwise provided in this section, there



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11 shall be no material alteration or substantial additions to the  
12 common elements or to real property which is association  
13 property, except in a manner provided in the declaration as  
14 originally recorded or as amended under the procedures provided  
15 therein. If the declaration as originally recorded or as amended  
16 under the procedures provided therein does not specify the  
17 procedure for approval of material alterations or substantial  
18 additions, 75 percent of the total voting interests of the  
19 association must approve the alterations or additions before the  
20 material alterations or substantial additions are commenced.

21 This paragraph is intended to clarify existing law and applies  
22 to associations existing on the effective date of this act  
23 ~~October 1, 2008.~~

24 (b) There shall not be any material alteration of, or  
25 substantial addition to, the common elements of any condominium  
26 operated by a multicondominium association unless approved in  
27 the manner provided in the declaration of the affected  
28 condominium or condominiums as originally recorded or as amended  
29 under the procedures provided therein. If a declaration as  
30 originally recorded or as amended under the procedures provided  
31 therein does not specify a procedure for approving such an  
32 alteration or addition, the approval of 75 percent of the total  
33 voting interests of each affected condominium is required before  
34 the material alterations or substantial additions are commenced.

35 This subsection does not prohibit a provision in any  
36 declaration, articles of incorporation, or bylaws as originally  
37 recorded or as amended under the procedures provided therein  
38 requiring the approval of unit owners in any condominium  
39 operated by the same association or requiring board approval



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40 before a material alteration or substantial addition to the  
41 common elements is permitted. This paragraph is intended to  
42 clarify existing law and applies to associations existing on the  
43 effective date of this act.

44 (c) There shall not be any material alteration or  
45 substantial addition made to association real property operated  
46 by a multicondominium association, except as provided in the  
47 declaration, articles of incorporation, or bylaws as originally  
48 recorded or as amended under the procedures provided therein. If  
49 the declaration, articles of incorporation, or bylaws as  
50 originally recorded or as amended under the procedures provided  
51 therein do not specify the procedure for approving an alteration  
52 or addition to association real property, the approval of 75  
53 percent of the total voting interests of the association is  
54 required before the material alterations or substantial  
55 additions are commenced. This paragraph is intended to clarify  
56 existing law and applies to associations existing on the  
57 effective date of this act.

58 Section 4. Section 718.707, Florida Statutes, is amended to  
59 read:

60 718.707 Time limitation for classification as bulk assignee  
61 or bulk buyer.—A person acquiring condominium parcels may not be  
62 classified as a bulk assignee or bulk buyer unless the  
63 condominium parcels were acquired on or after July 1, 2010, ~~but~~  
64 ~~before July 1, 2018~~. The date of such acquisition shall be  
65 determined by the date of recording a deed or other instrument  
66 of conveyance for such parcels in the public records of the  
67 county in which the condominium is located, or by the date of  
68 issuing a certificate of title in a foreclosure proceeding with



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69 respect to such condominium parcels.

70 Section 5. Paragraphs (a) and (b) of subsection (2) and  
71 paragraph (c) of subsection (4) of section 719.104, Florida  
72 Statutes, are amended to read:

73 719.104 Cooperatives; access to units; records; financial  
74 reports; assessments; purchase of leases.-

75 (2) OFFICIAL RECORDS.-

76 (a) From the inception of the association, the association  
77 shall maintain a copy of each of the following, where  
78 applicable, which shall constitute the official records of the  
79 association:

80 1. The plans, permits, warranties, and other items provided  
81 by the developer pursuant to s. 719.301(4).

82 2. A photocopy of the cooperative documents.

83 3. A copy of the current rules of the association.

84 4. A book or books containing the minutes of all meetings  
85 of the association, of the board of directors, and of the unit  
86 owners, which minutes shall be retained for a period of not less  
87 than 7 years.

88 5. A current roster of all unit owners and their mailing  
89 addresses, unit identifications, voting certifications, and, if  
90 known, telephone numbers. The association shall also maintain  
91 the electronic mailing addresses and the numbers designated by  
92 unit owners for receiving notice sent by electronic transmission  
93 of those unit owners consenting to receive notice by electronic  
94 transmission. The electronic mailing addresses and numbers  
95 provided by unit owners to receive notice by electronic  
96 transmission shall be removed from association records when  
97 consent to receive notice by electronic transmission is revoked.



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98 However, the association is not liable for an erroneous  
99 disclosure of the electronic mail address or the number for  
100 receiving electronic transmission of notices.

101 6. All current insurance policies of the association.

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

106 8. Bills of sale or transfer for all property owned by the  
107 association.

108 9. Accounting records for the association and separate  
109 accounting records for each unit it operates, according to good  
110 accounting practices. All accounting records shall be maintained  
111 for a period of not less than 7 years. The accounting records  
112 shall include, but not be limited to:

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

115 b. A current account and a monthly, bimonthly, or quarterly  
116 statement of the account for each unit designating the name of  
117 the unit owner, the due date and amount of each assessment, the  
118 amount paid upon the account, and the balance due.

119 c. All audits, reviews, accounting statements, and  
120 financial reports of the association.

121 d. All contracts for work to be performed. Bids for work to  
122 be performed shall also be considered official records and shall  
123 be maintained for a period of 1 year.

124 10. Ballots, sign-in sheets, voting proxies, and all other  
125 papers and electronic records relating to voting by unit owners,  
126 which shall be maintained for a period of 1 year after the date



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127 of the election, vote, or meeting to which the document relates.

128 11. All rental records where the association is acting as  
129 agent for the rental of units.

130 12. A copy of the current question and answer sheet as  
131 described in s. 719.504.

132 13. All other written records of the association not  
133 specifically included in the foregoing which are related to the  
134 operation of the association.

135 (b) The official records of the association must be  
136 maintained within the state for at least 7 years. The records of  
137 the association shall be made available to a unit owner within  
138 45 miles of the cooperative property or within the county in  
139 which the cooperative property is located within 10 ~~5~~ working  
140 days after receipt of written request by the board or its  
141 designee. This paragraph may be complied with by having a copy  
142 of the official records of the association available for  
143 inspection or copying on the cooperative property or the  
144 association may offer the option of making the records available  
145 to a unit owner electronically via the Internet or by allowing  
146 the records to be viewed in an electronic format on a computer  
147 screen and printed upon request. The association is not  
148 responsible for the use or misuse of the information provided to  
149 an association member or his or her authorized representative  
150 pursuant to the compliance requirements of this chapter unless  
151 the association has an affirmative duty not to disclose such  
152 information pursuant to this chapter.

153 (4) FINANCIAL REPORT.—

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





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156 expenditures.

157 ~~2. An association in a community of fewer than 50 units,~~  
158 ~~regardless of the association's annual revenues, shall prepare a~~  
159 ~~report of cash receipts and expenditures in lieu of the~~  
160 ~~financial statements required by paragraph (b), unless the~~  
161 ~~declaration or other recorded governing documents provide~~  
162 ~~otherwise.~~

163 2.3. A report of cash receipts and expenditures must  
164 disclose the amount of receipts by accounts and receipt  
165 classifications and the amount of expenses by accounts and  
166 expense classifications, including the following, as applicable:  
167 costs for security, professional, and management fees and  
168 expenses; taxes; costs for recreation facilities; expenses for  
169 refuse collection and utility services; expenses for lawn care;  
170 costs for building maintenance and repair; insurance costs;  
171 administration and salary expenses; and reserves, if maintained  
172 by the association.

173 Section 6. Subsection (5) of section 719.1055, Florida  
174 Statutes, is amended to read:

175 719.1055 Amendment of cooperative documents; alteration and  
176 acquisition of property.—

177 (5) The bylaws must include a provision whereby a  
178 certificate of compliance from a licensed electrical contractor  
179 or electrician may be accepted by the association's board as  
180 evidence of compliance ~~of the cooperative units~~ with the  
181 applicable fire and life safety code.

182 (a)1. Notwithstanding chapter 633, s. 509.215, s.  
183 553.895(1), or any other code, statute, ordinance,  
184 administrative rule, or regulation, or any interpretation of the



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185 foregoing, an association ~~a cooperative~~ or unit owner is not  
186 obligated to retrofit the common elements or units of a  
187 residential cooperative with a fire sprinkler system or other  
188 engineered lifesafety system in a building that is 75 feet or  
189 less in height. There is no obligation to retrofit for a  
190 building greater than 75 feet in height, calculated from the  
191 lowest level of fire department vehicle access to the floor of  
192 the highest occupiable story ~~has been certified for occupancy by~~  
193 ~~the applicable governmental entity~~ if the unit owners have voted  
194 to forego such retrofitting by the affirmative vote of a  
195 majority of all voting interests in the affected cooperative.  
196 There is no requirement that owners in cooperatives of 75 feet  
197 or less conduct an opt-out vote and such cooperatives are exempt  
198 from fire sprinkler or other engineered lifesafety retrofitting.  
199 The preceding sentence is intended to clarify existing law. The  
200 local authority having jurisdiction may not require completion  
201 of retrofitting with a fire sprinkler system or other engineered  
202 lifesafety system before January 1, 2022 ~~the end of 2019~~. By  
203 December 31, 2018 ~~2016~~, a cooperative that is not in compliance  
204 with the requirements for a fire sprinkler system or other  
205 engineered lifesafety system and has not voted to forego  
206 retrofitting of such a system must initiate an application for a  
207 building permit for the required installation with the local  
208 government having jurisdiction demonstrating that the  
209 cooperative will become compliant by December 31, 2021 ~~2019~~.

210 2. A vote to forego required retrofitting may be obtained  
211 by limited proxy or by a ballot personally cast at a duly called  
212 membership meeting, or by execution of a written consent by the  
213 member, or by electronic voting, and is effective upon recording



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214 a certificate executed by an officer or agent of the association  
215 attesting to such vote in the public records of the county where  
216 the cooperative is located. When the opt-out vote is to be  
217 conducted at a meeting, the cooperative shall mail or ~~hand~~  
218 deliver to each unit owner written notice at least 14 days  
219 before the membership meeting in which the vote to forego  
220 retrofitting of the required fire sprinkler system or other  
221 engineered lifesafety system is to take place. Within 30 days  
222 after the cooperative's opt-out vote, notice of the results of  
223 the opt-out vote must be mailed or ~~hand~~ delivered to all unit  
224 owners. Evidence of compliance with this notice requirement must  
225 be made by affidavit executed by the person providing the notice  
226 and filed among the official records of the cooperative. Failure  
227 to provide timely notice to unit owners does not invalidate an  
228 otherwise valid opt-out vote if notice of the results is  
229 provided to the owners. ~~After notice is provided to each owner,~~  
230 ~~a copy must be provided by the current owner to a new owner~~  
231 ~~before closing and by a unit owner to a renter before signing a~~  
232 ~~lease.~~

233 (b) If there has been a previous vote to forego  
234 retrofitting, a vote to require retrofitting may be obtained at  
235 a special meeting of the unit owners called by a petition of  
236 least 10 percent of the voting interests or by a majority of the  
237 board of directors. ~~Such vote may only be called once every 3~~  
238 ~~years.~~ Notice must be provided as required for any regularly  
239 called meeting of the unit owners, and the notice must state the  
240 purpose of the meeting. ~~Electronic transmission may not be used~~  
241 ~~to provide notice of a meeting called in whole or in part for~~  
242 ~~this purpose.~~



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243 (c) As part of the information collected annually from  
244 cooperatives, the division shall require associations to report  
245 the membership vote and recording of a certificate under this  
246 subsection and, if retrofitting has been undertaken, the per-  
247 unit cost of such work. The division shall annually report to  
248 the Division of State Fire Marshal of the Department of  
249 Financial Services the number of cooperatives that have elected  
250 to forego retrofitting. Compliance with this administrative  
251 reporting requirement does not affect the validity of an opt-out  
252 vote.

253 Section 7. Paragraphs (a) and (c) of subsection (1) of  
254 section 719.106, Florida Statutes, are amended, and paragraph  
255 (m) is added to that subsection, to read:

256 719.106 Bylaws; cooperative ownership.—

257 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
258 documents shall provide for the following, and if they do not,  
259 they shall be deemed to include the following:

260 (a) *Administration.*—

261 1. The form of administration of the association shall be  
262 described, indicating the titles of the officers and board of  
263 administration and specifying the powers, duties, manner of  
264 selection and removal, and compensation, if any, of officers and  
265 board members. In the absence of such a provision, the board of  
266 administration shall be composed of five members, except in the  
267 case of cooperatives having five or fewer units, in which case  
268 in not-for-profit corporations, the board shall consist of not  
269 fewer than three members. In a residential cooperative  
270 association of more than 10 units, co-owners of a unit may not  
271 serve as members of the board of directors at the same time



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272 unless the co-owners own more than one unit or unless there are  
273 not enough eligible candidates to fill the vacancies on the  
274 board at the time of the vacancy. In the absence of provisions  
275 to the contrary, the board of administration shall have a  
276 president, a secretary, and a treasurer, who shall perform the  
277 duties of those offices customarily performed by officers of  
278 corporations. Unless prohibited in the bylaws, the board of  
279 administration may appoint other officers and grant them those  
280 duties it deems appropriate. Unless otherwise provided in the  
281 bylaws, the officers shall serve without compensation and at the  
282 pleasure of the board. Unless otherwise provided in the bylaws,  
283 the members of the board shall serve without compensation.

284       2. A person who has been suspended or removed by the  
285 division under this chapter, or who is delinquent in the payment  
286 of any monetary obligation due to the association, is not  
287 eligible to be a candidate for board membership and may not be  
288 listed on the ballot. A director or officer charged by  
289 information or indictment with a felony theft or embezzlement  
290 offense involving the association's funds or property is  
291 suspended from office. The board shall fill the vacancy  
292 according to general law until the end of the period of the  
293 suspension or the end of the director's term of office,  
294 whichever occurs first. However, if the charges are resolved  
295 without a finding of guilt or without acceptance of a plea of  
296 guilty or nolo contendere, the director or officer shall be  
297 reinstated for any remainder of his or her term of office. A  
298 member who has such criminal charges pending may not be  
299 appointed or elected to a position as a director or officer. A  
300 person who has been convicted of any felony in this state or in



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301 any United States District Court, or who has been convicted of  
302 any offense in another jurisdiction which would be considered a  
303 felony if committed in this state, is not eligible for board  
304 membership unless such felon's civil rights have been restored  
305 for at least 5 years as of the date such person seeks election  
306 to the board. The validity of an action by the board is not  
307 affected if it is later determined that a board member is  
308 ineligible for board membership due to having been convicted of  
309 a felony.

310         3. When a unit owner files a written inquiry by certified  
311 mail with the board of administration, the board shall respond  
312 in writing to the unit owner within 30 days of receipt of the  
313 inquiry. The board's response shall either give a substantive  
314 response to the inquirer, notify the inquirer that a legal  
315 opinion has been requested, or notify the inquirer that advice  
316 has been requested from the division. If the board requests  
317 advice from the division, the board shall, within 10 days of its  
318 receipt of the advice, provide in writing a substantive response  
319 to the inquirer. If a legal opinion is requested, the board  
320 shall, within 60 days after the receipt of the inquiry, provide  
321 in writing a substantive response to the inquirer. The failure  
322 to provide a substantive response to the inquirer as provided  
323 herein precludes the board from recovering attorney's fees and  
324 costs in any subsequent litigation, administrative proceeding,  
325 or arbitration arising out of the inquiry. The association may,  
326 through its board of administration, adopt reasonable rules and  
327 regulations regarding the frequency and manner of responding to  
328 the unit owners' inquiries, one of which may be that the  
329 association is obligated to respond to only one written inquiry



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330 per unit in any given 30-day period. In such case, any  
331 additional inquiry or inquiries must be responded to in the  
332 subsequent 30-day period, or periods, as applicable.

333 (c) *Board of administration meetings.*—Members of the board  
334 of administration may use e-mail as a means of communication but  
335 may not cast a vote on an association matter via e-mail.

336 Meetings of the board of administration at which a quorum of the  
337 members is present shall be open to all unit owners. Any unit  
338 owner may tape record or videotape meetings of the board of  
339 administration. The right to attend such meetings includes the  
340 right to speak at such meetings with reference to all designated  
341 agenda items. The division shall adopt reasonable rules  
342 governing the tape recording and videotaping of the meeting. The  
343 association may adopt reasonable written rules governing the  
344 frequency, duration, and manner of unit owner statements.

345 Adequate notice of all meetings shall be posted in a conspicuous  
346 place upon the cooperative property at least 48 continuous hours  
347 preceding the meeting, except in an emergency. Any item not  
348 included on the notice may be taken up on an emergency basis by  
349 at least a majority plus one of the members of the board. Such  
350 emergency action shall be noticed and ratified at the next  
351 regular meeting of the board. Notice of any meeting in which  
352 regular or special assessments against unit owners are to be  
353 considered must specifically state that assessments will be  
354 considered and provide the estimated amount and description of  
355 the purposes for such assessments. ~~However,~~ Written notice of  
356 any meeting at which nonemergency special assessments, or at  
357 which amendment to rules regarding unit use, will be considered  
358 shall be mailed, delivered, or electronically transmitted to the



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359 unit owners and posted conspicuously on the cooperative property  
360 not less than 14 days before the meeting. Evidence of compliance  
361 with this 14-day notice shall be made by an affidavit executed  
362 by the person providing the notice and filed among the official  
363 records of the association. Upon notice to the unit owners, the  
364 board shall by duly adopted rule designate a specific location  
365 on the cooperative property upon which all notices of board  
366 meetings shall be posted. In lieu of or in addition to the  
367 physical posting of notice of any meeting of the board of  
368 administration on the cooperative property, the association may,  
369 by reasonable rule, adopt a procedure for conspicuously posting  
370 and repeatedly broadcasting the notice and the agenda on a  
371 closed-circuit cable television system serving the cooperative  
372 association. However, if broadcast notice is used in lieu of a  
373 notice posted physically on the cooperative property, the notice  
374 and agenda must be broadcast at least four times every broadcast  
375 hour of each day that a posted notice is otherwise required  
376 under this section. When broadcast notice is provided, the  
377 notice and agenda must be broadcast in a manner and for a  
378 sufficient continuous length of time so as to allow an average  
379 reader to observe the notice and read and comprehend the entire  
380 content of the notice and the agenda. In addition to any of the  
381 authorized means of providing notice of a meeting of the board,  
382 the association may, by rule, adopt a procedure for  
383 conspicuously posting the meeting notice and the agenda on a  
384 website serving the cooperative association for at least the  
385 minimum period of time for which a notice of a meeting is also  
386 required to be physically posted on the cooperative property.  
387 Any rule adopted shall, in addition to other matters, include a





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388 requirement that the association send an electronic notice  
389 providing a hypertext link to the website where the notice is  
390 posted. ~~Notice of any meeting in which regular assessments~~  
391 ~~against unit owners are to be considered for any reason shall~~  
392 ~~specifically contain a statement that assessments will be~~  
393 ~~considered and the nature of any such assessments.~~ Meetings of a  
394 committee to take final action on behalf of the board or to make  
395 recommendations to the board regarding the association budget  
396 are subject to the provisions of this paragraph. Meetings of a  
397 committee that does not take final action on behalf of the board  
398 or make recommendations to the board regarding the association  
399 budget are subject to the provisions of this section, unless  
400 those meetings are exempted from this section by the bylaws of  
401 the association. Notwithstanding any other law to the contrary,  
402 the requirement that board meetings and committee meetings be  
403 open to the unit owners does not apply to board or committee  
404 meetings held for the purpose of discussing personnel matters or  
405 meetings between the board or a committee and the association's  
406 attorney, with respect to proposed or pending litigation, if the  
407 meeting is held for the purpose of seeking or rendering legal  
408 advice.

409 (m) Director or officer delinquencies.—A director or  
410 officer more than 90 days delinquent in the payment of any  
411 monetary obligation due the association shall be deemed to have  
412 abandoned the office, creating a vacancy in the office to be  
413 filled according to law.

414 Section 8. Paragraph (b) of subsection (1) of section  
415 719.107, Florida Statutes, is amended to read:

416 719.107 Common expenses; assessment.—



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417 (1)  
418 (b) If so provided in the bylaws, the cost of a master  
419 antenna television system or duly franchised cable television  
420 service, communications services as defined in chapter 202,  
421 information services, or Internet services obtained pursuant to  
422 a bulk contract shall be deemed a common expense, and if not  
423 obtained pursuant to a bulk contract, such cost shall be  
424 considered common expense if it is designated as such in a  
425 written contract between the board of administration and the  
426 company providing the master television antenna system or the  
427 cable television service, communications services as defined in  
428 chapter 202, information services, or Internet services. The  
429 contract shall be for a term of not less than 2 years.  
430 1. Any contract made by the board after April 2, 1992, for  
431 a community antenna system or duly franchised cable television  
432 service, communications services as defined in chapter 202,  
433 information services, or Internet services may be canceled by a  
434 majority of the voting interests present at the next regular or  
435 special meeting of the association. Any member may make a motion  
436 to cancel the contract, but if no motion is made or if such  
437 motion fails to obtain the required majority at the next regular  
438 or special meeting, whichever is sooner, following the making of  
439 the contract, then such contract shall be deemed ratified for  
440 the term therein expressed.  
441 2. Any such contract shall provide, and shall be deemed to  
442 provide if not expressly set forth, that any hearing impaired or  
443 legally blind unit owner who does not occupy the unit with a  
444 nonhearing impaired or sighted person may discontinue the  
445 service without incurring disconnect fees, penalties, or



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446 subsequent service charges, and as to such units, the owners  
447 shall not be required to pay any common expenses charge related  
448 to such service. If less than all members of an association  
449 share the expenses of cable television, the expense shall be  
450 shared equally by all participating unit owners. The association  
451 may use the provisions of s. 719.108 to enforce payment of the  
452 shares of such costs by the unit owners receiving cable  
453 television.

454 Section 9. Paragraphs (a) and (c) of subsection (2) and  
455 subsections (6) and (7) of section 720.303, Florida Statutes,  
456 are amended to read:

457 720.303 Association powers and duties; meetings of board;  
458 official records; budgets; budget meetings; financial reporting;  
459 association funds; recalls.—

460 (2) BOARD MEETINGS.—

461 (a) Members of the board of administration may use e-mail  
462 as a means of communication, but may not cast a vote on an  
463 association matter via e-mail. A meeting of the board of  
464 directors of an association occurs whenever a quorum of the  
465 board gathers to conduct association business. Meetings of the  
466 board must be open to all members, except for meetings between  
467 the board and its attorney with respect to proposed or pending  
468 litigation where the contents of the discussion would otherwise  
469 be governed by the attorney-client privilege. A meeting of the  
470 board must be held at a location that is accessible to a  
471 physically handicapped person if requested by a physically  
472 handicapped person who has a right to attend the meeting. The  
473 provisions of this subsection shall also apply to the meetings  
474 of any committee or other similar body when a final decision



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475 will be made regarding the expenditure of association funds and  
476 to meetings of any body vested with the power to approve or  
477 disapprove architectural decisions with respect to a specific  
478 parcel of residential property owned by a member of the  
479 community.

480 (c) The bylaws shall provide the following for giving  
481 notice to parcel owners and members of all board meetings and,  
482 if they do not do so, shall be deemed to include ~~provide~~ the  
483 following:

484 1. Notices of all board meetings must be posted in a  
485 conspicuous place in the community at least 48 hours in advance  
486 of a meeting, except in an emergency. In the alternative, if  
487 notice is not posted in a conspicuous place in the community,  
488 notice of each board meeting must be mailed or delivered to each  
489 member at least 7 days before the meeting, except in an  
490 emergency. Notwithstanding this general notice requirement, for  
491 communities with more than 100 members, the association bylaws  
492 may provide for a reasonable alternative to posting or mailing  
493 of notice for each board meeting, including publication of  
494 notice, provision of a schedule of board meetings, or the  
495 conspicuous posting and repeated broadcasting of the notice on a  
496 closed-circuit cable television system serving the homeowners'  
497 association. However, if broadcast notice is used in lieu of a  
498 notice posted physically in the community, the notice must be  
499 broadcast at least four times every broadcast hour of each day  
500 that a posted notice is otherwise required. When broadcast  
501 notice is provided, the notice and agenda must be broadcast in a  
502 manner and for a sufficient continuous length of time so as to  
503 allow an average reader to observe the notice and read and



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504 comprehend the entire content of the notice and the agenda. The  
505 association may provide notice by electronic transmission in a  
506 manner authorized by law for meetings of the board of directors,  
507 committee meetings requiring notice under this section, and  
508 annual and special meetings of the members to any member who has  
509 provided a facsimile number or e-mail address to the association  
510 to be used for such purposes; however, a member must consent in  
511 writing to receiving notice by electronic transmission.

512 2. An assessment may not be levied at a board meeting  
513 unless the notice of the meeting includes a statement that  
514 assessments will be considered and the nature of the  
515 assessments. Written notice of any meeting at which special  
516 assessments will be considered or at which amendments to rules  
517 regarding parcel use will be considered must be mailed,  
518 delivered, or electronically transmitted to the members and  
519 parcel owners and posted conspicuously on the property or  
520 broadcast on closed-circuit cable television not less than 14  
521 days before the meeting.

522 3. Directors may not vote by proxy or by secret ballot at  
523 board meetings, except that secret ballots may be used in the  
524 election of officers. This subsection also applies to the  
525 meetings of any committee or other similar body, when a final  
526 decision will be made regarding the expenditure of association  
527 funds, and to any body vested with the power to approve or  
528 disapprove architectural decisions with respect to a specific  
529 parcel of residential property owned by a member of the  
530 community.

531 (6) BUDGETS; BUDGET MEETINGS.—

532 (a) The association shall prepare an annual budget that



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533 sets out the annual operating expenses. The budget must reflect  
534 the estimated revenues and expenses for that year and the  
535 estimated surplus or deficit as of the end of the current year.  
536 The budget must set out separately all fees or charges paid for  
537 by the association for recreational amenities, whether owned by  
538 the association, the developer, or another person. The  
539 association shall provide each member with a copy of the annual  
540 budget or a written notice that a copy of the budget is  
541 available upon request at no charge to the member. The copy must  
542 be provided to the member within the time limits set forth in  
543 subsection (5).

544 (b) In addition to annual operating expenses, the budget  
545 must ~~may~~ include reserve accounts for capital expenditures and  
546 deferred maintenance ~~for~~ which are obligations of the  
547 association under is responsible. ~~If reserve accounts are not~~  
548 ~~established pursuant to paragraph (d), funding of such reserves~~  
549 ~~is limited to the extent that~~ the governing documents for any  
550 item that has a deferred maintenance expense or replacement cost  
551 that exceeds \$10,000. The amount to be reserved must be computed  
552 using a formula based upon estimated remaining useful life and  
553 estimated replacement cost or deferred maintenance expense of  
554 each reserve item. The association may adjust replacement  
555 reserve limit increases in assessments annually to take into  
556 account any changes in estimates or extension of the useful life  
557 of a reserve item caused by deferred maintenance. This  
558 subsection does not apply to a budget adopted by the members of  
559 an association by a majority vote at a duly called meeting,  
560 including reserves. If the budget of the association to provide  
561 no reserves or less reserves than required by this subsection



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562 ~~includes reserve accounts established pursuant to paragraph (d),~~  
563 ~~such reserves shall be determined, maintained, and waived in the~~  
564 ~~manner provided in this subsection. Once an association provides~~  
565 ~~for reserve accounts pursuant to paragraph (d), the association~~  
566 ~~shall thereafter determine, maintain, and waive reserves in~~  
567 ~~compliance with this subsection. This section does not preclude~~  
568 the termination of a reserve account established pursuant to  
569 this paragraph upon approval of a majority of the total voting  
570 interests of the association. Upon such approval, the  
571 terminating reserve account shall be removed from the budget.

572 (c)1. Before turnover of control of an If the budget of the  
573 association pursuant to s. 720.307, the developer may vote the  
574 voting interests allocated to its parcels to waive the reserves  
575 or reduce the funding of reserves through the period expiring at  
576 the end of the second fiscal year after the fiscal year in which  
577 the governing documents are initially recorded or an instrument  
578 that transfers title to a parcel subject to the governing  
579 documents which is not accompanied by a recorded assignment of  
580 developer rights in favor of the grantee of such parcel is  
581 recorded, whichever occurs first, after which time reserves may  
582 be waived or reduced only upon the vote of a majority of all  
583 nondeveloper voting interests voting in person or by limited  
584 proxy at a duly called meeting of the association. does not  
585 ~~provide for reserve accounts pursuant to paragraph (d) and the~~  
586 ~~association is responsible for the repair and maintenance of~~  
587 ~~capital improvements that may result in a special assessment if~~  
588 ~~reserves are not provided, each financial report for the~~  
589 ~~preceding fiscal year required by subsection (7) must contain~~  
590 ~~the following statement in conspicuous type:~~



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591 ~~THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE~~  
592 ~~ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT~~  
593 ~~MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE~~  
594 ~~FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA~~  
595 ~~STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL~~  
596 ~~VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A~~  
597 ~~MEETING OR BY WRITTEN CONSENT.~~

598 ~~2. If the budget of the association does provide for~~  
599 ~~funding accounts for deferred expenditures, including, but not~~  
600 ~~limited to, funds for capital expenditures and deferred~~  
601 ~~maintenance, but such accounts are not created or established~~  
602 ~~pursuant to paragraph (d), each financial report for the~~  
603 ~~preceding fiscal year required under subsection (7) must also~~  
604 ~~contain the following statement in conspicuous type:~~  
605 ~~THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY~~  
606 ~~DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES~~  
607 ~~AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED~~  
608 ~~IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED~~  
609 ~~TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),~~  
610 ~~FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE~~  
611 ~~RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR~~  
612 ~~ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.~~

613 ~~(d) An association is deemed to have provided for reserve~~  
614 ~~accounts if reserve accounts have been initially established by~~  
615 ~~the developer or if the membership of the association~~  
616 ~~affirmatively elects to provide for reserves. If reserve~~  
617 ~~accounts are established by the developer, the budget must~~  
618 ~~designate the components for which the reserve accounts may be~~  
619 ~~used. If reserve accounts are not initially provided by the~~





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620 ~~developer, the membership of the association may elect to do so~~  
621 ~~upon the affirmative approval of a majority of the total voting~~  
622 ~~interests of the association. Such approval may be obtained by~~  
623 ~~vote of the members at a duly called meeting of the membership~~  
624 ~~or by the written consent of a majority of the total voting~~  
625 ~~interests of the association. The approval action of the~~  
626 ~~membership must state that reserve accounts shall be provided~~  
627 ~~for in the budget and must designate the components for which~~  
628 ~~the reserve accounts are to be established. Upon approval by the~~  
629 ~~membership, the board of directors shall include the required~~  
630 ~~reserve accounts in the budget in the next fiscal year following~~  
631 ~~the approval and each year thereafter. Once established as~~  
632 ~~provided in this subsection, the reserve accounts must be funded~~  
633 ~~or maintained or have their funding waived in the manner~~  
634 ~~provided in paragraph (f).~~

635 ~~(e) The amount to be reserved in any account established~~  
636 ~~shall be computed by means of a formula that is based upon~~  
637 ~~estimated remaining useful life and estimated replacement cost~~  
638 ~~or deferred maintenance expense of each reserve item. The~~  
639 ~~association may adjust replacement reserve assessments annually~~  
640 ~~to take into account any changes in estimates of cost or useful~~  
641 ~~life of a reserve item.~~

642 ~~(f) After one or more reserve accounts are established, the~~  
643 ~~membership of the association, upon a majority vote at a meeting~~  
644 ~~at which a quorum is present, may provide for no reserves or~~  
645 ~~less reserves than required by this section. If a meeting of the~~  
646 ~~parcel unit owners has been called to determine whether to waive~~  
647 ~~or reduce the funding of reserves and such result is not~~  
648 ~~achieved or a quorum is not present, the reserves as included in~~



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649 the budget go into effect. After the turnover, the developer may  
650 vote its voting interest to waive or reduce the funding of  
651 reserves. ~~Any vote taken pursuant to this subsection to waive or~~  
652 ~~reduce reserves is applicable only to one budget year.~~

653 (d) Reserve funds and any interest accruing thereon shall  
654 remain in the reserve account or accounts and may be used only  
655 for authorized reserve expenditures unless their use for other  
656 purposes is approved in advance by a majority vote at a duly  
657 called meeting of the association. Before turnover of control of  
658 an association by a developer to parcel owners other than the  
659 developer pursuant to s. 720.307, the developer-controlled  
660 association may not vote to use reserves for purposes other than  
661 those for which they were intended without the approval of a  
662 majority of all nondeveloper voting interests, voting in person  
663 or by limited proxy at a duly called meeting of the association.

664 (e) The only voting interests eligible to vote on questions  
665 that involve waiving or reducing the funding of reserves, or  
666 using existing reserve funds for purposes other than purposes  
667 for which the reserves were intended, are the voting interests  
668 of the parcels subject to assessment to fund the reserves in  
669 question. Any vote taken pursuant to this subsection to waive or  
670 reduce reserves is applicable only to one budget year. Proxy

671 questions relating to waiving or reducing the funding of  
672 reserves or using existing reserve funds for purposes other than  
673 purposes for which the reserves were intended must contain the  
674 following statement in capitalized, bold letters in a font size  
675 larger than any other used on the face of the proxy ballot:

676 WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING  
677 ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN PARCEL OWNER



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678 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS  
679 REGARDING THOSE ITEMS.

680 (f) Funding formulas for reserves required by this section  
681 must be based on a pooled analysis of two or more of the items  
682 for which reserves are required to be accrued pursuant to this  
683 subsection. The amount of the contribution to the pooled reserve  
684 account as disclosed on the proposed budget may not be less than  
685 that required to ensure that the balance on hand at the  
686 beginning of the period the budget will go into effect plus the  
687 projected annual cash inflows over the remaining estimated  
688 useful life of all of the assets that make up the reserve pool  
689 are equal to or greater than the projected annual cash outflows  
690 over the remaining estimated useful lives of all the assets that  
691 make up the reserve pool based on the current reserve analysis.  
692 The projected annual cash inflows may include estimated earnings  
693 from investment of principal and accounts receivable minus the  
694 allowance for doubtful accounts. The reserve funding formula may  
695 not include any type of balloon payments.

696 (g) As alternative to the pooled analysis method described  
697 in paragraph (f) and, if approved by a majority vote at a  
698 meeting of the members of the association at which a quorum is  
699 present, the funding formulas for reserves required authorized  
700 by this section ~~may~~ must be based on a separate analysis of each  
701 of the required assets or a pooled analysis of two or more of  
702 the required assets.

703 1. If the association maintains separate reserve accounts  
704 for each of the required assets, the amount of the contribution  
705 to each reserve account is the sum of the following two  
706 calculations:



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707        ~~1.a.~~ The total amount necessary, if any, to bring a  
708 negative component balance to zero.

709        ~~2.b.~~ The total estimated deferred maintenance expense or  
710 estimated replacement cost of the reserve component less the  
711 estimated balance of the reserve component as of the beginning  
712 of the period the budget will be in effect. The remainder, if  
713 greater than zero, shall be divided by the estimated remaining  
714 useful life of the component.

715  
716 The formula may be adjusted each year for changes in estimates  
717 and deferred maintenance performed during the year and may  
718 include factors such as inflation and earnings on invested  
719 funds. An association may convert its funding formulas from a  
720 component method to a pooled method, as described in paragraph  
721 (f), at any time if approved by a majority vote at a meeting at  
722 which a quorum is present.

723        ~~2. If the association maintains a pooled account of two or~~  
724 ~~more of the required reserve assets, the amount of the~~  
725 ~~contribution to the pooled reserve account as disclosed on the~~  
726 ~~proposed budget may not be less than that required to ensure~~  
727 ~~that the balance on hand at the beginning of the period the~~  
728 ~~budget will go into effect plus the projected annual cash~~  
729 ~~inflows over the remaining estimated useful life of all of the~~  
730 ~~assets that make up the reserve pool are equal to or greater~~  
731 ~~than the projected annual cash outflows over the remaining~~  
732 ~~estimated useful lives of all the assets that make up the~~  
733 ~~reserve pool, based on the current reserve analysis. The~~  
734 ~~projected annual cash inflows may include estimated earnings~~  
735 ~~from investment of principal and accounts receivable minus the~~



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736 ~~allowance for doubtful accounts. The reserve funding formula may~~  
737 ~~not include any type of balloon payments.~~

738 ~~(h)1. Reserve funds and Any interest accruing thereon shall~~  
739 ~~remain in the reserve account or accounts and shall be used only~~  
740 ~~for authorized reserve expenditures unless their use for other~~  
741 ~~purposes is approved in advance by a majority vote at a meeting~~  
742 ~~at which a proposed annual budget of an association will be~~  
743 ~~considered by the board or a quorum is present. Prior to~~  
744 ~~turnover of control of an association by a developer to parcel~~  
745 ~~owners shall be open to all parcel owners, the developer-~~  
746 ~~controlled association shall not vote to use reserves for~~  
747 ~~purposes other than those for which they were intended without~~  
748 ~~the approval of a majority of all nondeveloper voting interests~~  
749 ~~voting in person or by limited proxy at a duly called meeting of~~  
750 ~~the association.~~

751 ~~2.a. If a board adopts in any fiscal year an annual budget~~  
752 ~~that requires assessments against parcel owners which exceed 115~~  
753 ~~percent of assessments for the preceding fiscal year, the board~~  
754 ~~shall conduct a special meeting of the parcel owners to consider~~  
755 ~~a substitute budget if the board receives, within 21 days after~~  
756 ~~adoption of the annual budget, a written request for a special~~  
757 ~~meeting from at least 10 percent of all voting interests. The~~  
758 ~~special meeting shall be conducted within 60 days after adoption~~  
759 ~~of the annual budget. At least 14 days before such special~~  
760 ~~meeting, the board shall hand deliver to each parcel owner, or~~  
761 ~~mail to each parcel owner at the address last furnished to the~~  
762 ~~association, a notice of the meeting. An officer or manager of~~  
763 ~~the association, or other person providing notice of such~~  
764 ~~meeting shall execute an affidavit evidencing compliance with~~



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765 this notice requirement, and such affidavit shall be filed among  
766 the official records of the association. Parcel owners may  
767 consider and adopt a substitute budget at the special meeting. A  
768 substitute budget is adopted if approved by a majority of all  
769 voting interests unless the bylaws require adoption by a greater  
770 percentage of voting interests. If there is not a quorum at the  
771 special meeting or a substitute budget is not adopted, the  
772 annual budget previously adopted by the board shall take effect  
773 as scheduled.

774 b. Any determination of whether assessments exceed 115  
775 percent of assessments for the prior fiscal year shall exclude  
776 any authorized provision for reasonable reserves for repair or  
777 replacement of the association property, anticipated expenses of  
778 the association which the board does not expect to be incurred  
779 on a regular or annual basis, or assessments for betterments to  
780 the condominium property.

781 c. If the developer controls the board, assessments may not  
782 exceed 115 percent of assessments for the prior fiscal year  
783 unless approved by a majority of all voting interests.

784 (i) The provisions of paragraphs (b)-(h) do not apply to  
785 mandatory reserve accounts required to be established and  
786 maintained by an association at the direction of a county or  
787 municipal government, water or drainage management district,  
788 community development district, or other political subdivision  
789 that has the authority to approve and control subdivision  
790 infrastructure which is entrusted to the care of an association  
791 on the condition that the association establish and maintain one  
792 or more mandatory reserve accounts for the deferred maintenance  
793 or replacement of the infrastructure in accordance with the



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794 requirements of that entrusting authority.

795 (7) FINANCIAL REPORTING.—Within 90 days after the end of  
796 the fiscal year, or annually on the date provided in the bylaws,  
797 the association shall prepare and complete, or contract with a  
798 third party for the preparation and completion of, a financial  
799 report for the preceding fiscal year. Within 21 days after the  
800 final financial report is completed by the association or  
801 received from the third party, but not later than 120 days after  
802 the end of the fiscal year or other date as provided in the  
803 bylaws, the association shall, within the time limits set forth  
804 in subsection (5), provide each member with a copy of the annual  
805 financial report or a written notice that a copy of the  
806 financial report is available upon request at no charge to the  
807 member. Financial reports shall be prepared as follows:

808 (a) An association that meets the criteria of this  
809 paragraph shall prepare or cause to be prepared a complete set  
810 of financial statements in accordance with generally accepted  
811 accounting principles as adopted by the Board of Accountancy.  
812 The financial statements shall be based upon the association's  
813 total annual revenues, as follows:

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

817 2. An association with total annual revenues of at least  
818 \$300,000, but less than \$500,000, shall prepare reviewed  
819 financial statements.

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

822 (b)1. An association with total annual revenues of less



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823 than \$150,000 shall prepare a report of cash receipts and  
824 expenditures.

825 ~~2. An association in a community of fewer than 50 parcels,~~  
826 ~~regardless of the association's annual revenues, may prepare a~~  
827 ~~report of cash receipts and expenditures in lieu of financial~~  
828 ~~statements required by paragraph (a) unless the governing~~  
829 ~~documents provide otherwise.~~

830 2.3. A report of cash receipts and disbursement must  
831 disclose the amount of receipts by accounts and receipt  
832 classifications and the amount of expenses by accounts and  
833 expense classifications, including, but not limited to, the  
834 following, as applicable: costs for security, professional, and  
835 management fees and expenses; taxes; costs for recreation  
836 facilities; expenses for refuse collection and utility services;  
837 expenses for lawn care; costs for building maintenance and  
838 repair; insurance costs; administration and salary expenses; and  
839 reserves if maintained by the association.

840 (c) If 20 percent of the parcel owners petition the board  
841 for a level of financial reporting higher than that required by  
842 this section, the association shall duly notice and hold a  
843 meeting of members within 30 days of receipt of the petition for  
844 the purpose of voting on raising the level of reporting for that  
845 fiscal year. Upon approval of a majority of the total voting  
846 interests of the parcel owners, the association shall prepare or  
847 cause to be prepared, shall amend the budget or adopt a special  
848 assessment to pay for the financial report regardless of any  
849 provision to the contrary in the governing documents, and shall  
850 provide within 90 days of the meeting or the end of the fiscal  
851 year, whichever occurs later:





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

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

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

860 (d) If approved by a majority of the voting interests  
861 present at a properly called meeting of the association, an  
862 association may prepare or cause to be prepared:

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

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

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

871  
872 ===== T I T L E A M E N D M E N T =====

873 And the title is amended as follows:

874 Delete lines 14 - 54

875 and insert:

876 applicability; amending s. 718.113, F.S.; revising  
877 voting requirements relating to alterations and  
878 additions to certain common elements or association  
879 property; amending s. 718.707, F.S.; revising the time  
880 period for classification as bulk assignee or bulk



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881 buyer; amending s. 719.104, F.S.; revising  
882 recordkeeping and reporting requirements; amending s.  
883 719.1055, F.S.; revising provisions relating to  
884 required condominium and cooperative association  
885 bylaws; revising provisions relating to evidence of  
886 condominium and cooperative association compliance  
887 with the fire and life safety code; revising unit and  
888 common elements required to be retrofitted; revising  
889 provisions relating to an association vote to forego  
890 retrofitting; providing applicability; amending s.  
891 719.106, F.S.; revising requirements to serve as a  
892 board member; prohibiting a board member from voting  
893 via e-mail; requiring that directors who are  
894 delinquent in certain payments owed in excess of  
895 certain periods of time be deemed to have abandoned  
896 their offices; authorizing an association to adopt  
897 rules for posting certain notices on a website;  
898 amending s. 719.107, F.S.; specifying certain services  
899 which are obtained pursuant to a bulk contract to be  
900 deemed a common expense; amending s. 720.303, F.S.;  
901 prohibiting a board member from voting via e-mail;  
902 revising certain notice requirements relating to board  
903 meetings; revising and providing budget requirements;  
904 providing an exemption to certain requirements;  
905 revising financial reporting requirements; authorizing  
906 an association to adopt rules for posting certain  
907 notices on a website; amending s. 720.306, F.S.;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2017	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

1           **Senate Amendment to Amendment (846426) (with directory and**  
2 **title amendments)**

3  
4           Delete lines 532 - 794  
5 and insert:

6           (i)1. If a board adopts in any fiscal year an annual budget  
7 that requires assessments against parcel owners which exceed 115  
8 percent of assessments for the preceding fiscal year, the board  
9 shall conduct a special meeting of the parcel owners to consider  
10 a substitute budget if the board receives, within 21 days after



868700

11 adoption of the annual budget, a written request for a special  
12 meeting from at least 10 percent of all voting interests. The  
13 special meeting shall be conducted within 60 days after adoption  
14 of the annual budget. At least 14 days before such special  
15 meeting, the board shall hand deliver to each parcel owner, or  
16 mail to each parcel owner at the address last furnished to the  
17 association, a notice of the meeting. An officer or manager of  
18 the association, or other person providing notice of such  
19 meeting shall execute an affidavit evidencing compliance with  
20 this notice requirement, and such affidavit shall be filed among  
21 the official records of the association. Parcel owners may  
22 consider and adopt a substitute budget at the special meeting. A  
23 substitute budget is adopted if approved by a majority of all  
24 voting interests unless the bylaws require adoption by a greater  
25 percentage of voting interests. If there is not a quorum at the  
26 special meeting or a substitute budget is not adopted, the  
27 annual budget previously adopted by the board shall take effect  
28 as scheduled.

29 2. Any determination of whether assessments exceed 115  
30 percent of assessments for the prior fiscal year shall exclude  
31 any authorized provision for reasonable reserves for repair or  
32 replacement of the association property, anticipated expenses of  
33 the association which the board does not expect to be incurred  
34 on a regular or annual basis, or assessments for betterments to  
35 the condominium property.

36 3. If the developer controls the board, assessments may not  
37 exceed 115 percent of assessments for the prior fiscal year  
38 unless approved by a majority of all voting interests.  
39



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=====  
D I R E C T O R Y C L A U S E A M E N D M E N T  
=====

And the directory clause is amended as follows:

Delete lines 454 - 456

and insert:

Section 7. Paragraphs (a) and (c) of subsection (2) of section 720.303, Florida Statutes, are amended, and paragraph (i) is added to subsection (6) of that section, to read:

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

And the title is amended as follows:

Delete lines 903 - 907

and insert:

meetings; revising requirements relating to the adoption of assessments; amending s. 720.306, F.S.;



147778

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/29/2017	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 833 - 1096.

===== **D I R E C T O R Y C L A U S E A M E N D M E N T**=====

And the directory clause is amended as follows:

Delete lines 808 - 809

and insert:

Section 7. Paragraph (a) of subsection (2) of section 720.303, Florida Statutes, is amended to read:



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

And the title is amended as follows:

Delete lines 33 - 54

and insert:

from voting via e-mail, amending s. 720.306, F.S.;

By Senator Passidomo

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1                   A bill to be entitled  
2           An act relating to community associations; amending s.  
3           718.111, F.S.; revising reporting and record  
4           requirements; amending s. 718.112, F.S.; authorizing  
5           an association to adopt rules for posting certain  
6           notices on a website; revising provisions relating to  
7           required condominium and cooperative association  
8           bylaws; revising provisions relating to evidence of  
9           condominium and cooperative association compliance  
10          with the applicable fire and life safety code;  
11          revising unit and common elements required to be  
12          retrofitted; revising provisions relating to an  
13          association vote to forego retrofitting; providing  
14          applicability; amending s. 718.707, F.S.; revising the  
15          time period for classification as bulk assignee or  
16          bulk buyer; amending s. 719.104, F.S.; revising  
17          recordkeeping requirements; amending s. 719.1055,  
18          F.S.; revising provisions relating to required  
19          condominium and cooperative association bylaws;  
20          revising provisions relating to evidence of  
21          condominium and cooperative association compliance  
22          with the applicable fire and life safety code;  
23          revising unit and common elements required to be  
24          retrofitted; revising provisions relating to an  
25          association vote to forego retrofitting; providing  
26          applicability; amending s. 719.106, F.S.; prohibiting  
27          a board member from voting via e-mail; specifying  
28          notice requirements when regular or special  
29          assessments against unit owners are to be considered  
30          at a meeting; authorizing an association to adopt  
31          rules for posting certain notices on a website;  
32          amending s. 720.303, F.S.; prohibiting a board member



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33 from voting via e-mail; specifying reserve account  
34 amounts for maintenance expenses or replacement costs;  
35 revising requirements for the reserve account;  
36 authorizing a developer to waive the reserves or  
37 reduce funding of reserves under certain circumstances  
38 and subject to certain requirements; revising certain  
39 financial report requirements; deleting provisions  
40 specifying when an association is deemed to have  
41 provided for reserve accounts; revising the formula to  
42 determine funding for specified reserve accounts;  
43 requiring reserve funds and interest accruing to  
44 remain in the reserve accounts and limiting the  
45 expenditures for which such funds may be used under  
46 certain circumstances; specifying the voting interests  
47 that are eligible to vote to waive or reduce funding  
48 of reserves; providing voting requirements to waive or  
49 reduce funding of reserves; revising requirements for  
50 pooled accounts; providing requirements if a board  
51 adopts assessments against parcel owners under certain  
52 circumstances; providing a limit on assessments under  
53 certain circumstances; providing an exemption to  
54 certain requirements; amending s. 720.306, F.S.;  
55 providing elections requirements; amending s.  
56 720.3085, F.S.; providing applicability; providing an  
57 effective date.

58  
59 Be It Enacted by the Legislature of the State of Florida:

60  
61 Section 1. Subsections (12) and (13) of section 718.111,

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62 Florida Statutes, are amended to read:

63 718.111 The association.—

64 (12) OFFICIAL RECORDS.—

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

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

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

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

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

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

79 6. A book or books that contain the minutes of all meetings  
80 of the association, the board of administration, and the unit  
81 owners, which minutes must be retained for at least 7 years.

82 7. A current roster of all unit owners and their mailing  
83 addresses, unit identifications, and voting certifications, and,  
84 if known, telephone numbers. The association shall also maintain  
85 the electronic mailing addresses and facsimile numbers of unit  
86 owners consenting to receive notice by electronic transmission.  
87 The electronic mailing addresses and facsimile numbers are not  
88 accessible to unit owners if consent to receive notice by  
89 electronic transmission is not provided in accordance with  
90 subparagraph (c)5. However, the association is not liable for an

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91 inadvertent disclosure of the electronic mail address or  
92 facsimile number for receiving electronic transmission of  
93 notices.

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

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

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

102 11. Accounting records for the association and separate  
103 accounting records for each condominium that the association  
104 operates. All accounting records must be maintained for at least  
105 7 years. Any person who knowingly or intentionally defaces or  
106 destroys such records, or who knowingly or intentionally fails  
107 to create or maintain such records, with the intent of causing  
108 harm to the association or one or more of its members, is  
109 personally subject to a civil penalty pursuant to s.

110 718.501(1)(d). The accounting records must include, but are not  
111 limited to:

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

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

118 c. All audits, reviews, accounting statements, and  
119 financial reports of the association or condominium.

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120 d. All contracts for work to be performed. Bids for work to  
121 be performed are also considered official records and must be  
122 maintained by the association for 1 year.

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

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

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

132 15. All other written records of the association not  
133 specifically included in the foregoing which are related to the  
134 operation of the association.

135 16. A copy of the inspection report as described in s.  
136 718.301(4)(p).

137 (b) The official records of the association must be  
138 maintained within the state for at least 7 years. The records of  
139 the association shall be made available to a unit owner within  
140 45 miles of the condominium property or within the county in  
141 which the condominium property is located within 10 ~~5~~ working  
142 days after receipt of a written request by the board or its  
143 designee. However, such distance requirement does not apply to  
144 an association governing a timeshare condominium. This paragraph  
145 may be complied with by having a copy of the official records of  
146 the association available for inspection or copying on the  
147 condominium property or association property, or the association  
148 may offer the option of making the records available to a unit

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149 owner electronically via the Internet or by allowing the records  
150 to be viewed in electronic format on a computer screen and  
151 printed upon request. The association is not responsible for the  
152 use or misuse of the information provided to an association  
153 member or his or her authorized representative pursuant to the  
154 compliance requirements of this chapter unless the association  
155 has an affirmative duty not to disclose such information  
156 pursuant to this chapter.

157 (c) The official records of the association are open to  
158 inspection by any association member or the authorized  
159 representative of such member at all reasonable times. The right  
160 to inspect the records includes the right to make or obtain  
161 copies, at the reasonable expense, if any, of the member. The  
162 association may adopt reasonable rules regarding the frequency,  
163 time, location, notice, and manner of record inspections and  
164 copying. The failure of an association to provide the records  
165 within 10 working days after receipt of a written request  
166 creates a rebuttable presumption that the association willfully  
167 failed to comply with this paragraph. A unit owner who is denied  
168 access to official records is entitled to the actual damages or  
169 minimum damages for the association's willful failure to comply.  
170 Minimum damages are \$50 per calendar day for up to 10 days,  
171 beginning on the 11th working day after receipt of the written  
172 request. The failure to permit inspection entitles any person  
173 prevailing in an enforcement action to recover reasonable  
174 attorney fees from the person in control of the records who,  
175 directly or indirectly, knowingly denied access to the records.  
176 Any person who knowingly or intentionally defaces or destroys  
177 accounting records that are required by this chapter to be

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178 maintained during the period for which such records are required  
179 to be maintained, or who knowingly or intentionally fails to  
180 create or maintain accounting records that are required to be  
181 created or maintained, with the intent of causing harm to the  
182 association or one or more of its members, is personally subject  
183 to a civil penalty pursuant to s. 718.501(1)(d). The association  
184 shall maintain an adequate number of copies of the declaration,  
185 articles of incorporation, bylaws, and rules, and all amendments  
186 to each of the foregoing, as well as the question and answer  
187 sheet as described in s. 718.504 and year-end financial  
188 information required under this section, on the condominium  
189 property to ensure their availability to unit owners and  
190 prospective purchasers, and may charge its actual costs for  
191 preparing and furnishing these documents to those requesting the  
192 documents. An association shall allow a member or his or her  
193 authorized representative to use a portable device, including a  
194 smartphone, tablet, portable scanner, or any other technology  
195 capable of scanning or taking photographs, to make an electronic  
196 copy of the official records in lieu of the association's  
197 providing the member or his or her authorized representative  
198 with a copy of such records. The association may not charge a  
199 member or his or her authorized representative for the use of a  
200 portable device. Notwithstanding this paragraph, the following  
201 records are not accessible to unit owners:

202 1. Any record protected by the lawyer-client privilege as  
203 described in s. 90.502 and any record protected by the work-  
204 product privilege, including a record prepared by an association  
205 attorney or prepared at the attorney's express direction, which  
206 reflects a mental impression, conclusion, litigation strategy,

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207 or legal theory of the attorney or the association, and which  
208 was prepared exclusively for civil or criminal litigation or for  
209 adversarial administrative proceedings, or which was prepared in  
210 anticipation of such litigation or proceedings until the  
211 conclusion of the litigation or proceedings.

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

215 3. Personnel records of association or management company  
216 employees, including, but not limited to, disciplinary, payroll,  
217 health, and insurance records. For purposes of this  
218 subparagraph, the term "personnel records" does not include  
219 written employment agreements with an association employee or  
220 management company, or budgetary or financial records that  
221 indicate the compensation paid to an association employee.

222 4. Medical records of unit owners.

223 5. Social security numbers, driver license numbers, credit  
224 card numbers, e-mail addresses, telephone numbers, facsimile  
225 numbers, emergency contact information, addresses of a unit  
226 owner other than as provided to fulfill the association's notice  
227 requirements, and other personal identifying information of any  
228 person, excluding the person's name, unit designation, mailing  
229 address, property address, and any address, e-mail address, or  
230 facsimile number provided to the association to fulfill the  
231 association's notice requirements. Notwithstanding the  
232 restrictions in this subparagraph, an association may print and  
233 distribute to parcel owners a directory containing the name,  
234 parcel address, and all telephone numbers of each parcel owner.  
235 However, an owner may exclude his or her telephone numbers from

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236 the directory by so requesting in writing to the association. An  
237 owner may consent in writing to the disclosure of other contact  
238 information described in this subparagraph. The association is  
239 not liable for the inadvertent disclosure of information that is  
240 protected under this subparagraph if the information is included  
241 in an official record of the association and is voluntarily  
242 provided by an owner and not requested by the association.

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

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

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

251 (e)1. The association or its authorized agent is not  
252 required to provide a prospective purchaser or lienholder with  
253 information about the condominium or the association other than  
254 information or documents required by this chapter to be made  
255 available or disclosed. The association or its authorized agent  
256 may charge a reasonable fee to the prospective purchaser,  
257 lienholder, or the current unit owner for providing good faith  
258 responses to requests for information by or on behalf of a  
259 prospective purchaser or lienholder, other than that required by  
260 law, if the fee does not exceed \$150 plus the reasonable cost of  
261 photocopying and any attorney's fees incurred by the association  
262 in connection with the response.

263 2. An association and its authorized agent are not liable  
264 for providing such information in good faith pursuant to a



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265 written request if the person providing the information includes  
266 a written statement in substantially the following form: "The  
267 responses herein are made in good faith and to the best of my  
268 ability as to their accuracy."

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

276 (13) FINANCIAL REPORTING.—Within 90 days after the end of  
277 the fiscal year, or annually on a date provided in the bylaws,  
278 the association shall prepare and complete, or contract for the  
279 preparation and completion of, a financial report for the  
280 preceding fiscal year. Within 21 days after the final financial  
281 report is completed by the association or received from the  
282 third party, but not later than 120 days after the end of the  
283 fiscal year or other date as provided in the bylaws, the  
284 association shall mail to each unit owner at the address last  
285 furnished to the association by the unit owner, or hand deliver  
286 to each unit owner, a copy of the financial report or a notice  
287 that a copy of the financial report will be mailed or hand  
288 delivered to the unit owner, without charge, upon receipt of a  
289 written request from the unit owner. The division shall adopt  
290 rules setting forth uniform accounting principles and standards  
291 to be used by all associations and addressing the financial  
292 reporting requirements for multicondominium associations. The  
293 rules must include, but not be limited to, standards for

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294 presenting a summary of association reserves, including a good  
295 faith estimate disclosing the annual amount of reserve funds  
296 that would be necessary for the association to fully fund  
297 reserves for each reserve item based on the straight-line  
298 accounting method. This disclosure is not applicable to reserves  
299 funded via the pooling method. In adopting such rules, the  
300 division shall consider the number of members and annual  
301 revenues of an association. Financial reports shall be prepared  
302 as follows:

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

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

311 2. An association with total annual revenues of at least  
312 \$300,000, but less than \$500,000, shall prepare reviewed  
313 financial statements.

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

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

319 ~~2. An association that operates fewer than 50 units,~~  
320 ~~regardless of the association's annual revenues, shall prepare a~~  
321 ~~report of cash receipts and expenditures in lieu of financial~~  
322 ~~statements required by paragraph (a).~~

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323       ~~2.3.~~ A report of cash receipts and disbursements must  
324 disclose the amount of receipts by accounts and receipt  
325 classifications and the amount of expenses by accounts and  
326 expense classifications, including, but not limited to, the  
327 following, as applicable: costs for security, professional and  
328 management fees and expenses, taxes, costs for recreation  
329 facilities, expenses for refuse collection and utility services,  
330 expenses for lawn care, costs for building maintenance and  
331 repair, insurance costs, administration and salary expenses, and  
332 reserves accumulated and expended for capital expenditures,  
333 deferred maintenance, and any other category for which the  
334 association maintains reserves.

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

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

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

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

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

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

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

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352 statement; or

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

356  
357 Such meeting and approval must occur before the end of the  
358 fiscal year and is effective only for the fiscal year in which  
359 the vote is taken, except that the approval may also be  
360 effective for the following fiscal year. If the developer has  
361 not turned over control of the association, all unit owners,  
362 including the developer, may vote on issues related to the  
363 preparation of the association's financial reports, from the  
364 date of incorporation of the association through the end of the  
365 second fiscal year after the fiscal year in which the  
366 certificate of a surveyor and mapper is recorded pursuant to s.  
367 718.104(4)(e) or an instrument that transfers title to a unit in  
368 the condominium which is not accompanied by a recorded  
369 assignment of developer rights in favor of the grantee of such  
370 unit is recorded, whichever occurs first. Thereafter, all unit  
371 owners except the developer may vote on such issues until  
372 control is turned over to the association by the developer. Any  
373 audit or review prepared under this section shall be paid for by  
374 the developer if done before turnover of control of the  
375 association. ~~An association may not waive the financial  
376 reporting requirements of this section for more than 3  
377 consecutive years.~~

378 Section 2. Paragraphs (c) and (1) of subsection (2) of  
379 section 718.112, Florida Statutes, are amended to read:

380 718.112 Bylaws.—

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381 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the  
382 following and, if they do not do so, shall be deemed to include  
383 the following:

384 (c) *Board of administration meetings.*—Meetings of the board  
385 of administration at which a quorum of the members is present  
386 are open to all unit owners. Members of the board of  
387 administration may use e-mail as a means of communication but  
388 may not cast a vote on an association matter via e-mail. A unit  
389 owner may tape record or videotape the meetings. The right to  
390 attend such meetings includes the right to speak at such  
391 meetings with reference to all designated agenda items. The  
392 division shall adopt reasonable rules governing the tape  
393 recording and videotaping of the meeting. The association may  
394 adopt written reasonable rules governing the frequency,  
395 duration, and manner of unit owner statements.

396 1. Adequate notice of all board meetings, which must  
397 specifically identify all agenda items, must be posted  
398 conspicuously on the condominium property at least 48 continuous  
399 hours before the meeting except in an emergency. If 20 percent  
400 of the voting interests petition the board to address an item of  
401 business, the board, within 60 days after receipt of the  
402 petition, shall place the item on the agenda at its next regular  
403 board meeting or at a special meeting called for that purpose.  
404 An item not included on the notice may be taken up on an  
405 emergency basis by a vote of at least a majority plus one of the  
406 board members. Such emergency action must be noticed and  
407 ratified at the next regular board meeting. Notice of any  
408 meeting in which a regular or special assessment against unit  
409 owners is to be considered must specifically state that

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410 assessments will be considered and provide the estimated amount  
411 and a description of the purposes for such assessments. ~~However,~~  
412 Written notice of a meeting at which a nonemergency special  
413 assessment or an amendment to rules regarding unit use will be  
414 considered must be mailed, delivered, or electronically  
415 transmitted to the unit owners and posted conspicuously on the  
416 condominium property at least 14 days before the meeting.  
417 Evidence of compliance with this 14-day notice requirement must  
418 be made by an affidavit executed by the person providing the  
419 notice and filed with the official records of the association.  
420 Upon notice to the unit owners, the board shall, by duly adopted  
421 rule, designate a specific location on the condominium or  
422 association property where all notices of board meetings must be  
423 posted. If there is no condominium property or association  
424 property where notices can be posted, notices shall be mailed,  
425 delivered, or electronically transmitted to each unit owner at  
426 least 14 days before the meeting. In lieu of or in addition to  
427 the physical posting of the notice on the condominium property,  
428 the association may, by reasonable rule, adopt a procedure for  
429 conspicuously posting and repeatedly broadcasting the notice and  
430 the agenda on a closed-circuit cable television system serving  
431 the condominium association. However, if broadcast notice is  
432 used in lieu of a notice physically posted on condominium  
433 property, the notice and agenda must be broadcast at least four  
434 times every broadcast hour of each day that a posted notice is  
435 otherwise required under this section. If broadcast notice is  
436 provided, the notice and agenda must be broadcast in a manner  
437 and for a sufficient continuous length of time so as to allow an  
438 average reader to observe the notice and read and comprehend the

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439 entire content of the notice and the agenda. In addition to any  
440 of the authorized means of providing notice of a meeting of the  
441 board, the association may, by rule, adopt a procedure for  
442 conspicuously posting the meeting notice and the agenda on a  
443 website serving the condominium association for at least the  
444 minimum period of time for which a notice of a meeting is also  
445 required to be physically posted on the condominium property.  
446 Any rule adopted shall, in addition to other matters, include a  
447 requirement that the association send an electronic notice  
448 providing a hypertext link to the website where the notice is  
449 posted. ~~Notice of any meeting in which regular or special~~  
450 ~~assessments against unit owners are to be considered must~~  
451 ~~specifically state that assessments will be considered and~~  
452 ~~provide the nature, estimated cost, and description of the~~  
453 ~~purposes for such assessments.~~

454 2. Meetings of a committee to take final action on behalf  
455 of the board or make recommendations to the board regarding the  
456 association budget are subject to this paragraph. Meetings of a  
457 committee that does not take final action on behalf of the board  
458 or make recommendations to the board regarding the association  
459 budget are subject to this section, unless those meetings are  
460 exempted from this section by the bylaws of the association.

461 3. Notwithstanding any other law, the requirement that  
462 board meetings and committee meetings be open to the unit owners  
463 does not apply to:

464 a. Meetings between the board or a committee and the  
465 association's attorney, with respect to proposed or pending  
466 litigation, if the meeting is held for the purpose of seeking or  
467 rendering legal advice; or

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468 b. Board meetings held for the purpose of discussing  
469 personnel matters.

470 (1) *Certificate of compliance.*—A provision that a  
471 certificate of compliance from a licensed professional engineer  
472 ~~electrical contractor or electrician~~ may be accepted by the  
473 association's board as evidence of compliance ~~of the condominium~~  
474 ~~units~~ with the applicable fire and life safety code must be  
475 included. Notwithstanding chapter 633, s. 509.215, s.  
476 553.895(1), or ~~of~~ any other code, statute, ordinance,  
477 administrative rule, or regulation, or any interpretation of the  
478 foregoing, an association, ~~residential condominium,~~ or unit  
479 owner is not obligated to retrofit the common elements,  
480 association property, or units of a residential condominium with  
481 a fire sprinkler system or other engineered lifesafety system in  
482 a building that is 75 feet or less in height. There is no  
483 obligation to retrofit for a building greater than 75 feet in  
484 height, calculated from the lowest level of fire department  
485 vehicle access to the floor of the highest occupiable story, has  
486 ~~been certified for occupancy by the applicable governmental~~  
487 ~~entity~~ if the unit owners have voted to forego such retrofitting  
488 by the affirmative vote of a majority of all voting interests in  
489 the affected condominium. There is no requirement that owners in  
490 condominiums of 75 feet or less conduct an opt-out vote; such  
491 condominiums are exempt from fire sprinkler or other engineered  
492 lifesafety retrofitting. The preceding sentence is intended to  
493 clarify existing law. The local authority having jurisdiction  
494 may not require completion of retrofitting with a fire sprinkler  
495 system or other engineered lifesafety system before January 1,  
496 2022 ~~2020~~. By December 31, 2018 ~~2016~~, an a residential



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497 ~~condominium~~ association that operates a residential condominium  
498 that is not in compliance with the requirements for a fire  
499 sprinkler system or other engineered lifesafety system and has  
500 not voted to forego retrofitting of such a system must initiate  
501 an application for a building permit for the required  
502 installation with the local government having jurisdiction  
503 demonstrating that the association will become compliant by  
504 December 31, 2021 ~~2019~~.

505 1. A vote to forego required retrofitting may be obtained  
506 by limited proxy or by a ballot personally cast at a duly called  
507 membership meeting, or by execution of a written consent by the  
508 member, or by electronic voting, and is effective upon recording  
509 a certificate executed by an officer or agent of the association  
510 attesting to such vote in the public records of the county where  
511 the condominium is located. When an opt-out vote is to be  
512 conducted at a meeting, the association shall mail or ~~hand~~  
513 deliver to each unit owner written notice at least 14 days  
514 before the membership meeting in which the vote to forego  
515 retrofitting of the required fire sprinkler system or other  
516 engineered lifesafety system is to take place. Within 30 days  
517 after the association's opt-out vote, notice of the results of  
518 the opt-out vote must be mailed or ~~hand~~ delivered to all unit  
519 owners. Evidence of compliance with this notice requirement must  
520 be made by affidavit executed by the person providing the notice  
521 and filed among the official records of the association. Failure  
522 to provide timely notice to unit owners does not invalidate an  
523 otherwise valid opt-out vote if notice of the results is  
524 provided to the owners. ~~After notice is provided to each owner,~~  
525 ~~a copy must be provided by the current owner to a new owner~~

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526 ~~before closing and by a unit owner to a renter before signing a~~  
527 ~~lease.~~

528       2. If there has been a previous vote to forego  
529 retrofitting, a vote to require retrofitting may be obtained at  
530 a special meeting of the unit owners called by a petition of at  
531 least 10 percent of the voting interests or by a majority of the  
532 board of directors. ~~Such a vote may only be called once every 3~~  
533 ~~years.~~ Notice shall be provided as required for any regularly  
534 called meeting of the unit owners, and must state the purpose of  
535 the meeting. ~~Electronic transmission may not be used to provide~~  
536 ~~notice of a meeting called in whole or in part for this purpose.~~

537       3. As part of the information collected annually from  
538 condominiums, the division shall require condominium  
539 associations to report the membership vote and recording of a  
540 certificate under this subsection and, if retrofitting has been  
541 undertaken, the per-unit cost of such work. The division shall  
542 annually report to the Division of State Fire Marshal of the  
543 Department of Financial Services the number of condominiums that  
544 have elected to forego retrofitting. Compliance with this  
545 administrative reporting requirement does not affect the  
546 validity of an opt-out vote.

547       4. Notwithstanding s. 553.509, a residential association  
548 may not be obligated to, and may forego the retrofitting of, any  
549 improvements required by s. 553.509(2) upon an affirmative vote  
550 of a majority of the voting interests in the affected  
551 condominium.

552       Section 3. Section 718.707, Florida Statutes, is amended to  
553 read:

554       718.707 Time limitation for classification as bulk assignee

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555 or bulk buyer.—A person acquiring condominium parcels may not be  
556 classified as a bulk assignee or bulk buyer unless the  
557 condominium parcels were acquired on or after July 1, 2010, ~~but~~  
558 ~~before July 1, 2018~~. The date of such acquisition shall be  
559 determined by the date of recording a deed or other instrument  
560 of conveyance for such parcels in the public records of the  
561 county in which the condominium is located, or by the date of  
562 issuing a certificate of title in a foreclosure proceeding with  
563 respect to such condominium parcels.

564 Section 4. Paragraphs (a) and (b) of subsection (2) of  
565 section 719.104, Florida Statutes, are amended to read:

566 719.104 Cooperatives; access to units; records; financial  
567 reports; assessments; purchase of leases.—

568 (2) OFFICIAL RECORDS.—

569 (a) From the inception of the association, the association  
570 shall maintain a copy of each of the following, where  
571 applicable, which shall constitute the official records of the  
572 association:

573 1. The plans, permits, warranties, and other items provided  
574 by the developer pursuant to s. 719.301(4).

575 2. A photocopy of the cooperative documents.

576 3. A copy of the current rules of the association.

577 4. A book or books containing the minutes of all meetings  
578 of the association, of the board of directors, and of the unit  
579 owners, which minutes shall be retained for a period of not less  
580 than 7 years.

581 5. A current roster of all unit owners and their mailing  
582 addresses, unit identifications, voting certifications, and, if  
583 known, telephone numbers. The association shall also maintain

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584 the electronic mailing addresses and the numbers designated by  
585 unit owners for receiving notice sent by electronic transmission  
586 of those unit owners consenting to receive notice by electronic  
587 transmission. The electronic mailing addresses and numbers  
588 provided by unit owners to receive notice by electronic  
589 transmission shall be removed from association records when  
590 consent to receive notice by electronic transmission is revoked.  
591 However, the association is not liable for an erroneous  
592 disclosure of the electronic mail address or the number for  
593 receiving electronic transmission of notices.

594 6. All current insurance policies of the association.

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

599 8. Bills of sale or transfer for all property owned by the  
600 association.

601 9. Accounting records for the association and separate  
602 accounting records for each unit it operates, according to good  
603 accounting practices. All accounting records shall be maintained  
604 for a period of not less than 7 years. The accounting records  
605 shall include, but not be limited to:

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

608 b. A current account and a monthly, bimonthly, or quarterly  
609 statement of the account for each unit designating the name of  
610 the unit owner, the due date and amount of each assessment, the  
611 amount paid upon the account, and the balance due.

612 c. All audits, reviews, accounting statements, and

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613 financial reports of the association.

614 d. All contracts for work to be performed. Bids for work to  
615 be performed shall also be considered official records and shall  
616 be maintained for a period of 1 year.

617 10. Ballots, sign-in sheets, voting proxies, and all other  
618 papers and electronic records relating to voting by unit owners,  
619 which shall be maintained for a period of 1 year after the date  
620 of the election, vote, or meeting to which the document relates.

621 11. All rental records where the association is acting as  
622 agent for the rental of units.

623 12. A copy of the current question and answer sheet as  
624 described in s. 719.504.

625 13. All other written records of the association not  
626 specifically included in the foregoing which are related to the  
627 operation of the association.

628 (b) The official records of the association must be  
629 maintained within the state for at least 7 years. The records of  
630 the association shall be made available to a unit owner within  
631 45 miles of the cooperative property or within the county in  
632 which the cooperative property is located within 10 ~~5~~ working  
633 days after receipt of written request by the board or its  
634 designee. This paragraph may be complied with by having a copy  
635 of the official records of the association available for  
636 inspection or copying on the cooperative property or the  
637 association may offer the option of making the records available  
638 to a unit owner electronically via the Internet or by allowing  
639 the records to be viewed in an electronic format on a computer  
640 screen and printed upon request. The association is not  
641 responsible for the use or misuse of the information provided to

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642 an association member or his or her authorized representative  
643 pursuant to the compliance requirements of this chapter unless  
644 the association has an affirmative duty not to disclose such  
645 information pursuant to this chapter.

646 Section 5. Subsection (5) of section 719.1055, Florida  
647 Statutes, is amended to read:

648 719.1055 Amendment of cooperative documents; alteration and  
649 acquisition of property.—

650 (5) The bylaws must include a provision whereby a  
651 certificate of compliance from a licensed professional engineer  
652 ~~electrical contractor or electrician~~ may be accepted by the  
653 association's board as evidence of compliance ~~of the cooperative~~  
654 ~~units~~ with the applicable fire and life safety code.

655 (a)1. Notwithstanding chapter 633, s. 509.215, s.  
656 553.895(1), or any other code, statute, ordinance,  
657 administrative rule, or regulation, or any interpretation of the  
658 foregoing, an association a cooperative or unit owner is not  
659 obligated to retrofit the common elements or units of a  
660 residential cooperative with a fire sprinkler system or other  
661 engineered lifesafety system in a building that is 75 feet or  
662 less in height. There is no obligation to retrofit for a  
663 building greater than 75 feet in height, calculated from the  
664 lowest level of fire department vehicle access to the floor of  
665 the highest occupiable story, has been certified for occupancy  
666 ~~by the applicable governmental entity~~ if the unit owners have  
667 voted to forego such retrofitting by the affirmative vote of a  
668 majority of all voting interests in the affected cooperative.  
669 There is no requirement that owners in cooperatives of 75 feet  
670 or less conduct an opt-out vote; such cooperatives are exempt

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671 from fire sprinkler or other engineered life safety  
672 retrofitting. The preceding sentence is intended to clarify  
673 existing law. The local authority having jurisdiction may not  
674 require completion of retrofitting with a fire sprinkler system  
675 or other engineered life safety system before January 1, 2022  
676 ~~the end of 2019~~. By December 31, 2018 ~~2016~~, a cooperative that  
677 is not in compliance with the requirements for a fire sprinkler  
678 system or other engineered lifesafety system and has not voted  
679 to forego retrofitting of such a system must initiate an  
680 application for a building permit for the required installation  
681 with the local government having jurisdiction demonstrating that  
682 the cooperative will become compliant by December 31, 2021 ~~2019~~.

683 2. A vote to forego required retrofitting may be obtained  
684 by limited proxy or by a ballot personally cast at a duly called  
685 membership meeting, or by execution of a written consent by the  
686 member, or by electronic voting, and is effective upon recording  
687 a certificate executed by an officer or agent of the association  
688 attesting to such vote in the public records of the county where  
689 the cooperative is located. When the opt-out vote is to be  
690 conducted at a meeting, the cooperative shall mail or ~~hand~~  
691 deliver to each unit owner written notice at least 14 days  
692 before the membership meeting in which the vote to forego  
693 retrofitting of the required fire sprinkler system or other  
694 engineered lifesafety system is to take place. Within 30 days  
695 after the cooperative's opt-out vote, notice of the results of  
696 the opt-out vote must be mailed or ~~hand~~ delivered to all unit  
697 owners. Evidence of compliance with this notice requirement must  
698 be made by affidavit executed by the person providing the notice  
699 and filed among the official records of the cooperative. Failure

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700 to provide timely notice to unit owners does not invalidate an  
701 otherwise valid opt-out vote if notice of the results is  
702 provided to the owners. After notice is provided to each owner,  
703 ~~a copy must be provided by the current owner to a new owner~~  
704 ~~before closing and by a unit owner to a renter before signing a~~  
705 ~~lease.~~

706 (b) If there has been a previous vote to forego  
707 retrofitting, a vote to require retrofitting may be obtained at  
708 a special meeting of the unit owners called by a petition of  
709 least 10 percent of the voting interests or by a majority of the  
710 board of directors. ~~Such vote may only be called once every 3~~  
711 ~~years.~~ Notice must be provided as required for any regularly  
712 called meeting of the unit owners, and the notice must state the  
713 purpose of the meeting. ~~Electronic transmission may not be used~~  
714 ~~to provide notice of a meeting called in whole or in part for~~  
715 ~~this purpose.~~

716 (c) As part of the information collected annually from  
717 cooperatives, the division shall require associations to report  
718 the membership vote and recording of a certificate under this  
719 subsection and, if retrofitting has been undertaken, the per-  
720 unit cost of such work. The division shall annually report to  
721 the Division of State Fire Marshal of the Department of  
722 Financial Services the number of cooperatives that have elected  
723 to forego retrofitting. Compliance with this administrative  
724 reporting requirement does not affect the validity of an opt-out  
725 vote.

726 Section 6. Paragraph (c) of subsection (1) of section  
727 719.106, Florida Statutes, is amended to read:

728 719.106 Bylaws; cooperative ownership.-



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729 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
730 documents shall provide for the following, and if they do not,  
731 they shall be deemed to include the following:

732 (c) *Board of administration meetings.*—Members of the board  
733 of administration may use e-mail as a means of communication,  
734 but may not cast a vote on an association matter via e-mail.  
735 Meetings of the board of administration at which a quorum of the  
736 members is present shall be open to all unit owners. Any unit  
737 owner may tape record or videotape meetings of the board of  
738 administration. The right to attend such meetings includes the  
739 right to speak at such meetings with reference to all designated  
740 agenda items. The division shall adopt reasonable rules  
741 governing the tape recording and videotaping of the meeting. The  
742 association may adopt reasonable written rules governing the  
743 frequency, duration, and manner of unit owner statements.  
744 Adequate notice of all meetings shall be posted in a conspicuous  
745 place upon the cooperative property at least 48 continuous hours  
746 preceding the meeting, except in an emergency. Any item not  
747 included on the notice may be taken up on an emergency basis by  
748 at least a majority plus one of the members of the board. Such  
749 emergency action shall be noticed and ratified at the next  
750 regular meeting of the board. Notice of any meeting in which  
751 regular or special assessments against unit owners are to be  
752 considered must specifically state that assessments will be  
753 considered and provide the estimated amount and description of  
754 the purposes for such assessments. ~~However,~~ Written notice of  
755 any meeting at which nonemergency special assessments, or at  
756 which amendment to rules regarding unit use, will be considered  
757 shall be mailed, delivered, or electronically transmitted to the

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758 unit owners and posted conspicuously on the cooperative property  
759 not less than 14 days before the meeting. Evidence of compliance  
760 with this 14-day notice shall be made by an affidavit executed  
761 by the person providing the notice and filed among the official  
762 records of the association. Upon notice to the unit owners, the  
763 board shall by duly adopted rule designate a specific location  
764 on the cooperative property upon which all notices of board  
765 meetings shall be posted. In lieu of or in addition to the  
766 physical posting of notice of any meeting of the board of  
767 administration on the cooperative property, the association may,  
768 by reasonable rule, adopt a procedure for conspicuously posting  
769 and repeatedly broadcasting the notice and the agenda on a  
770 closed-circuit cable television system serving the cooperative  
771 association. However, if broadcast notice is used in lieu of a  
772 notice posted physically on the cooperative property, the notice  
773 and agenda must be broadcast at least four times every broadcast  
774 hour of each day that a posted notice is otherwise required  
775 under this section. When broadcast notice is provided, the  
776 notice and agenda must be broadcast in a manner and for a  
777 sufficient continuous length of time so as to allow an average  
778 reader to observe the notice and read and comprehend the entire  
779 content of the notice and the agenda. In addition to any of the  
780 authorized means of providing notice of a meeting of the board,  
781 the association may, by rule, adopt a procedure for  
782 conspicuously posting the meeting notice and the agenda on a  
783 website serving the cooperative association for at least the  
784 minimum period of time for which a notice of a meeting is also  
785 required to be physically posted on the cooperative property.  
786 Any rule adopted shall, in addition to other matters, include a

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787 requirement that the association send an electronic notice  
788 providing a hypertext link to the website where the notice is  
789 posted. ~~Notice of any meeting in which regular assessments~~  
790 ~~against unit owners are to be considered for any reason shall~~  
791 ~~specifically contain a statement that assessments will be~~  
792 ~~considered and the nature of any such assessments.~~ Meetings of a  
793 committee to take final action on behalf of the board or to make  
794 recommendations to the board regarding the association budget  
795 are subject to the provisions of this paragraph. Meetings of a  
796 committee that does not take final action on behalf of the board  
797 or make recommendations to the board regarding the association  
798 budget are subject to the provisions of this section, unless  
799 those meetings are exempted from this section by the bylaws of  
800 the association. Notwithstanding any other law to the contrary,  
801 the requirement that board meetings and committee meetings be  
802 open to the unit owners does not apply to board or committee  
803 meetings held for the purpose of discussing personnel matters or  
804 meetings between the board or a committee and the association's  
805 attorney, with respect to proposed or pending litigation, if the  
806 meeting is held for the purpose of seeking or rendering legal  
807 advice.

808 Section 7. Paragraph (a) of subsection (2) and subsection  
809 (6) of section 720.303, Florida Statutes, are amended to read:

810 720.303 Association powers and duties; meetings of board;  
811 official records; budgets; budget meetings; financial reporting;  
812 association funds; recalls.-

813 (2) BOARD MEETINGS.-

814 (a) Members of the board of administration may use e-mail  
815 as a means of communication, but may not cast a vote on an

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816 association matter via e-mail. A meeting of the board of  
817 directors of an association occurs whenever a quorum of the  
818 board gathers to conduct association business. Meetings of the  
819 board must be open to all members, except for meetings between  
820 the board and its attorney with respect to proposed or pending  
821 litigation where the contents of the discussion would otherwise  
822 be governed by the attorney-client privilege. A meeting of the  
823 board must be held at a location that is accessible to a  
824 physically handicapped person if requested by a physically  
825 handicapped person who has a right to attend the meeting. The  
826 provisions of this subsection shall also apply to the meetings  
827 of any committee or other similar body when a final decision  
828 will be made regarding the expenditure of association funds and  
829 to meetings of any body vested with the power to approve or  
830 disapprove architectural decisions with respect to a specific  
831 parcel of residential property owned by a member of the  
832 community.

833 (6) BUDGETS; BUDGET MEETINGS.—

834 (a) The association shall prepare an annual budget that  
835 sets out the annual operating expenses. The budget must reflect  
836 the estimated revenues and expenses for that year and the  
837 estimated surplus or deficit as of the end of the current year.  
838 The budget must set out separately all fees or charges paid for  
839 by the association for recreational amenities, whether owned by  
840 the association, the developer, or another person. The  
841 association shall provide each member with a copy of the annual  
842 budget or a written notice that a copy of the budget is  
843 available upon request at no charge to the member. The copy must  
844 be provided to the member within the time limits set forth in

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845 subsection (5).

846 (b) In addition to annual operating expenses, the budget  
847 ~~must may~~ include reserve accounts for capital expenditures and  
848 deferred maintenance ~~for~~ which are obligations of the  
849 association under is responsible. ~~If reserve accounts are not~~  
850 ~~established pursuant to paragraph (d), funding of such reserves~~  
851 ~~is limited to the extent that~~ the governing documents for any  
852 item that has a deferred maintenance expense or replacement cost  
853 that exceeds \$10,000. The amount to be reserved must be computed  
854 using a formula based upon estimated remaining useful life and  
855 estimated replacement cost or deferred maintenance expense of  
856 each reserve item. The association may adjust replacement  
857 reserve limit increases in assessments annually to take into  
858 account any changes in estimates or extension of the useful life  
859 of a reserve item caused by deferred maintenance. This  
860 subsection does not apply to an adopted budget in which the  
861 members of an association have determined, by a majority vote at  
862 a duly called meeting, including reserves. ~~If the budget of the~~  
863 ~~association, to provide no reserves or less reserves than~~  
864 required by this subsection includes reserve accounts  
865 ~~established pursuant to paragraph (d), such reserves shall be~~  
866 ~~determined, maintained, and waived in the manner provided in~~  
867 ~~this subsection. Once an association provides for reserve~~  
868 ~~accounts pursuant to paragraph (d), the association shall~~  
869 ~~thereafter determine, maintain, and waive reserves in compliance~~  
870 ~~with this subsection.~~ This section does not preclude the  
871 termination of a reserve account established pursuant to this  
872 paragraph upon approval of a majority of the total voting  
873 interests of the association. Upon such approval, the

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874 terminating reserve account shall be removed from the budget.

875 ~~(c)1. Before turnover of control of an If the budget of the~~  
876 ~~association pursuant to s. 720.307, the developer may vote the~~  
877 ~~voting interests allocated to its parcels to waive the reserves~~  
878 ~~or reduce the funding of reserves through the period expiring at~~  
879 ~~the end of the second fiscal year after the fiscal year in which~~  
880 ~~the governing documents are initially recorded or an instrument~~  
881 ~~that transfers title to a parcel subject to the governing~~  
882 ~~documents which is not accompanied by a recorded assignment of~~  
883 ~~developer rights in favor of the grantee of such parcel is~~  
884 ~~recorded, whichever occurs first, after which time reserves may~~  
885 ~~be waived or reduced only upon the vote of a majority of all~~  
886 ~~nondeveloper voting interests voting in person or by limited~~  
887 ~~proxy at a duly called meeting of the association. does not~~  
888 ~~provide for reserve accounts pursuant to paragraph (d) and the~~  
889 ~~association is responsible for the repair and maintenance of~~  
890 ~~capital improvements that may result in a special assessment if~~  
891 ~~reserves are not provided, each financial report for the~~  
892 ~~preceding fiscal year required by subsection (7) must contain~~  
893 ~~the following statement in conspicuous type:~~

894 ~~THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE~~  
895 ~~ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT~~  
896 ~~MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE~~  
897 ~~FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA~~  
898 ~~STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL~~  
899 ~~VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A~~  
900 ~~MEETING OR BY WRITTEN CONSENT.~~

901 ~~2. If the budget of the association does provide for~~  
902 ~~funding accounts for deferred expenditures, including, but not~~

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903 ~~limited to, funds for capital expenditures and deferred~~  
904 ~~maintenance, but such accounts are not created or established~~  
905 ~~pursuant to paragraph (d), each financial report for the~~  
906 ~~preceding fiscal year required under subsection (7) must also~~  
907 ~~contain the following statement in conspicuous type:~~  
908 ~~THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY~~  
909 ~~DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES~~  
910 ~~AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED~~  
911 ~~IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED~~  
912 ~~TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),~~  
913 ~~FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE~~  
914 ~~RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR~~  
915 ~~ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.~~

916 ~~(d) An association is deemed to have provided for reserve~~  
917 ~~accounts if reserve accounts have been initially established by~~  
918 ~~the developer or if the membership of the association~~  
919 ~~affirmatively elects to provide for reserves. If reserve~~  
920 ~~accounts are established by the developer, the budget must~~  
921 ~~designate the components for which the reserve accounts may be~~  
922 ~~used. If reserve accounts are not initially provided by the~~  
923 ~~developer, the membership of the association may elect to do so~~  
924 ~~upon the affirmative approval of a majority of the total voting~~  
925 ~~interests of the association. Such approval may be obtained by~~  
926 ~~vote of the members at a duly called meeting of the membership~~  
927 ~~or by the written consent of a majority of the total voting~~  
928 ~~interests of the association. The approval action of the~~  
929 ~~membership must state that reserve accounts shall be provided~~  
930 ~~for in the budget and must designate the components for which~~  
931 ~~the reserve accounts are to be established. Upon approval by the~~

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932 ~~membership, the board of directors shall include the required~~  
933 ~~reserve accounts in the budget in the next fiscal year following~~  
934 ~~the approval and each year thereafter. Once established as~~  
935 ~~provided in this subsection, the reserve accounts must be funded~~  
936 ~~or maintained or have their funding waived in the manner~~  
937 ~~provided in paragraph (f).~~

938 ~~(c) The amount to be reserved in any account established~~  
939 ~~shall be computed by means of a formula that is based upon~~  
940 ~~estimated remaining useful life and estimated replacement cost~~  
941 ~~or deferred maintenance expense of each reserve item. The~~  
942 ~~association may adjust replacement reserve assessments annually~~  
943 ~~to take into account any changes in estimates of cost or useful~~  
944 ~~life of a reserve item.~~

945 ~~(f) After one or more reserve accounts are established, the~~  
946 ~~membership of the association, upon a majority vote at a meeting~~  
947 ~~at which a quorum is present, may provide for no reserves or~~  
948 ~~less reserves than required by this section. If a meeting of the~~  
949 ~~parcel unit owners has been called to determine whether to waive~~  
950 ~~or reduce the funding of reserves and such result is not~~  
951 ~~achieved or a quorum is not present, the reserves as included in~~  
952 ~~the budget go into effect. After the turnover, the developer may~~  
953 ~~vote its voting interest to waive or reduce the funding of~~  
954 ~~reserves. Any vote taken pursuant to this subsection to waive or~~  
955 ~~reduce reserves is applicable only to one budget year.~~

956 (d) Reserve funds and any interest accruing thereon shall  
957 remain in the reserve account or accounts and may be used only  
958 for authorized reserve expenditures unless their use for other  
959 purposes is approved in advance by a majority vote at a duly  
960 called meeting of the association. Before turnover of control of



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961 an association by a developer to parcel owners other than the  
962 developer pursuant to s. 720.307, the developer-controlled  
963 association may not vote to use reserves for purposes other than  
964 those for which they were intended without the approval of a  
965 majority of all nondeveloper voting interests, voting in person  
966 or by limited proxy at a duly called meeting of the association.

967 (e) The only voting interests that are eligible to vote on  
968 questions that involve waiving or reducing the funding of  
969 reserves, or using existing reserve funds for purposes other  
970 than purposes for which the reserves were intended, are the  
971 voting interests of the parcels subject to assessment to fund  
972 the reserves in question. Any vote taken pursuant to this  
973 subsection to waive or reduce reserves is applicable only to 1  
974 budget year. Proxy questions relating to waiving or reducing the  
975 funding of reserves or using existing reserve funds for purposes  
976 other than purposes for which the reserves were intended must  
977 contain the following statement in capitalized, bold letters in  
978 a font size larger than any other used on the face of the proxy  
979 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING  
980 ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN PARCEL OWNER  
981 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS  
982 REGARDING THOSE ITEMS.

983 (f) Funding formulas for reserves required by this section  
984 shall be based on a pooled analysis of two or more of the items  
985 for which reserves are required to be accrued pursuant to this  
986 subsection. The amount of the contribution to the pooled reserve  
987 account as disclosed on the proposed budget may not be less than  
988 that required to ensure that the balance on hand at the  
989 beginning of the period the budget will go into effect plus the

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990 projected annual cash inflows over the remaining estimated  
991 useful life of all of the assets that make up the reserve pool  
992 are equal to or greater than the projected annual cash outflows  
993 over the remaining estimated useful lives of all the assets that  
994 make up the reserve pool based on the current reserve analysis.  
995 The projected annual cash inflows may include estimated earnings  
996 from investment of principal and accounts receivable minus the  
997 allowance for doubtful accounts. The reserve funding formula may  
998 not include any type of balloon payments.

999 (g) As an alternative to the pooled analysis method  
1000 described in paragraph (f) and, if approved by a majority vote  
1001 at a meeting of the members of the association at which a quorum  
1002 is present, the funding formulas for reserves required  
1003 authorized by this section may must be based on a separate  
1004 analysis of each of the required assets or a pooled analysis of  
1005 two or more of the required assets. ~~1.~~ If the association  
1006 maintains separate reserve accounts for each of the required  
1007 assets, the amount of the contribution to each reserve account  
1008 is the sum of the following two calculations:

1009 ~~1.a.~~ The total amount necessary, if any, to bring a  
1010 negative component balance to zero.

1011 ~~2.b.~~ The total estimated deferred maintenance expense or  
1012 estimated replacement cost of the reserve component less the  
1013 estimated balance of the reserve component as of the beginning  
1014 of the period the budget will be in effect. The remainder, if  
1015 greater than zero, shall be divided by the estimated remaining  
1016 useful life of the component.

1017  
1018 The formula may be adjusted each year for changes in estimates

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1019 and deferred maintenance performed during the year and may  
1020 include factors such as inflation and earnings on invested  
1021 funds. An association may convert its funding formulas from a  
1022 component method to a pooled method, as described in paragraph  
1023 (f), at any time if approved by a majority vote at a meeting at  
1024 which a quorum is present.

1025 ~~2. If the association maintains a pooled account of two or~~  
1026 ~~more of the required reserve assets, the amount of the~~  
1027 ~~contribution to the pooled reserve account as disclosed on the~~  
1028 ~~proposed budget may not be less than that required to ensure~~  
1029 ~~that the balance on hand at the beginning of the period the~~  
1030 ~~budget will go into effect plus the projected annual cash~~  
1031 ~~inflows over the remaining estimated useful life of all of the~~  
1032 ~~assets that make up the reserve pool are equal to or greater~~  
1033 ~~than the projected annual cash outflows over the remaining~~  
1034 ~~estimated useful lives of all the assets that make up the~~  
1035 ~~reserve pool, based on the current reserve analysis. The~~  
1036 ~~projected annual cash inflows may include estimated earnings~~  
1037 ~~from investment of principal and accounts receivable minus the~~  
1038 ~~allowance for doubtful accounts. The reserve funding formula may~~  
1039 ~~not include any type of balloon payments.~~

1040 (h)1. ~~Reserve funds and Any interest accruing thereon shall~~  
1041 ~~remain in the reserve account or accounts and shall be used only~~  
1042 ~~for authorized reserve expenditures unless their use for other~~  
1043 ~~purposes is approved in advance by a majority vote at a meeting~~  
1044 ~~at which a proposed annual budget of an association will be~~  
1045 ~~considered by the board or a quorum is present. Prior to~~  
1046 ~~turnover of control of an association by a developer to parcel~~  
1047 ~~owners shall be open to all parcel owners, the developer~~

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1048 ~~controlled association shall not vote to use reserves for~~  
1049 ~~purposes other than those for which they were intended without~~  
1050 ~~the approval of a majority of all nondeveloper voting interests~~  
1051 ~~voting in person or by limited proxy at a duly called meeting of~~  
1052 ~~the association.~~

1053 2.a. If a board adopts in any fiscal year an annual budget  
1054 which requires assessments against parcel owners which exceed  
1055 115 percent of assessments for the preceding fiscal year, the  
1056 board shall conduct a special meeting of the parcel owners to  
1057 consider a substitute budget if the board receives, within 21  
1058 days after adoption of the annual budget, a written request for  
1059 a special meeting from at least 10 percent of all voting  
1060 interests. The special meeting shall be conducted within 60 days  
1061 after adoption of the annual budget. At least 14 days before  
1062 such special meeting, the board shall hand deliver to each  
1063 parcel owner, or mail to each parcel owner at the address last  
1064 furnished to the association, a notice of the meeting. An  
1065 officer or manager of the association, or other person providing  
1066 notice of such meeting, shall execute an affidavit evidencing  
1067 compliance with this notice requirement, and such affidavit  
1068 shall be filed among the official records of the association.  
1069 Parcel owners may consider and adopt a substitute budget at the  
1070 special meeting. A substitute budget is adopted if approved by a  
1071 majority of all voting interests unless the bylaws require  
1072 adoption by a greater percentage of voting interests. If there  
1073 is not a quorum at the special meeting or a substitute budget is  
1074 not adopted, the annual budget previously adopted by the board  
1075 shall take effect as scheduled.

1076 b. Any determination of whether assessments exceed 115

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1077 percent of assessments for the prior fiscal year shall exclude  
1078 any authorized provision for reasonable reserves for repair or  
1079 replacement of the association property, anticipated expenses of  
1080 the association which the board does not expect to be incurred  
1081 on a regular or annual basis, or assessments for betterments to  
1082 the condominium property.

1083 c. If the developer controls the board, assessments may not  
1084 exceed 115 percent of assessments for the prior fiscal year  
1085 unless approved by a majority of all voting interests.

1086 (i) The provisions of paragraphs (b)-(h) do not apply to  
1087 mandatory reserve accounts required to be established and  
1088 maintained by an association at the direction of a county or  
1089 municipal government, water or drainage management district,  
1090 community development district, or other political subdivision  
1091 that has the authority to approve and control subdivision  
1092 infrastructure which is being entrusted to the care of an  
1093 association on condition that the association establish and  
1094 maintain one or more mandatory reserve accounts for the deferred  
1095 maintenance or replacement of the infrastructure in accordance  
1096 with the requirements of that entrusting authority.

1097 Section 8. Paragraph (a) of subsection (9) of section  
1098 720.306, Florida Statutes, is amended to read:

1099 720.306 Meetings of members; voting and election  
1100 procedures; amendments.—

1101 (9) ELECTIONS AND BOARD VACANCIES.—

1102 (a) Elections of directors must be conducted in accordance  
1103 with the procedures set forth in the governing documents of the  
1104 association. Except as provided in paragraph (b), all members of  
1105 the association are eligible to serve on the board of directors,

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1106 and a member may nominate himself or herself as a candidate for  
1107 the board at a meeting where the election is to be held;  
1108 provided, however, that if the election process allows  
1109 candidates to be nominated in advance of the meeting, the  
1110 association is not required to allow nominations at the meeting.  
1111 An election is not required unless more candidates are nominated  
1112 than vacancies exist. If an election is not required because  
1113 there are either an equal number or fewer qualified candidates  
1114 than vacancies exist, and if nominations from the floor are not  
1115 required pursuant to this section or the bylaws, write-in  
1116 nominations are not permitted and such candidates shall commence  
1117 service on the board of directors, regardless of whether a  
1118 quorum is attained at the annual meeting. Except as otherwise  
1119 provided in the governing documents, boards of directors must be  
1120 elected by a plurality of the votes cast by eligible voters. Any  
1121 challenge to the election process must be commenced within 60  
1122 days after the election results are announced.

1123 Section 9. Paragraph (b) of subsection (3) of section  
1124 720.3085, Florida Statutes, is amended to read:

1125 720.3085 Payment for assessments; lien claims.—

1126 (3) Assessments and installments on assessments that are  
1127 not paid when due bear interest from the due date until paid at  
1128 the rate provided in the declaration of covenants or the bylaws  
1129 of the association, which rate may not exceed the rate allowed  
1130 by law. If no rate is provided in the declaration or bylaws,  
1131 interest accrues at the rate of 18 percent per year.

1132 (b) Any payment received by an association and accepted  
1133 shall be applied first to any interest accrued, then to any  
1134 administrative late fee, then to any costs and reasonable

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1135 attorney fees incurred in collection, and then to the delinquent  
1136 assessment. This paragraph applies notwithstanding any  
1137 restrictive endorsement, designation, or instruction placed on  
1138 or accompanying a payment. A late fee is not subject to the  
1139 provisions of chapter 687 and is not a fine. The foregoing is  
1140 applicable notwithstanding s. 673.3111, any purported accord and  
1141 satisfaction, or any restrictive endorsement, designation, or  
1142 instruction placed on or accompanying a payment. The preceding  
1143 sentence is intended to clarify existing law.

1144 Section 10. This act shall take effect July 1, 2017.



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** February 17, 2017

---

I respectfully request that **Senate Bill #744**, relating to Community Associations, be placed on the:

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

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

---

Senator Kathleen Passidomo  
Florida Senate, District 28



THE FLORIDA SENATE

APPEARANCE RECORD

3-26-17

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

20744

Meeting Date

Bill Number (if applicable)

Topic

Community Associations

868700  
Amendment Barcode (if applicable)

Name

KARE HEBRANK

HUTSON Amendment

Job Title

Address

113 EAST COLLEGE AVE.

Phone

850-566-7824

Street

TALLAHASSEE FL 32301

Email

khebrank@wilsonmgmt.com

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

FLORIDA HOME BUILDERS ASSOC.

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.

# APPEARANCE RECORD

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

3/28/17

Meeting Date

744

Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Rick Butcher

Job Title FIRE Chief

Address 444 Huey Av  
Street

Phone 727-534-0031

Jordan Springs FL 34689  
City State Zip

Email rbutcher@fstr.us

Speaking:  For  Against  Information

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

Representing FLORIDA FIRE Chiefs Assoc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/28/17

Meeting Date

744

Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Jim Millican

Job Title District Chief

Address 4360-55 AV N

Phone 727-526-5650

Street

St. Pete

FL

33714

City

State

Zip

Email jmillican@lealmanfire.com

Speaking:  For  Against  Information

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

Representing LEALMAN Fire District

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17  
Meeting Date

744

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Richard Pinsky

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

Address 106 E College Ave #1200

Phone \_\_\_\_\_

Street

Tallahassee

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Cyber Citizens

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/27/17  
Meeting Date

Topic Community Associations

Bill Number 744  
*(if applicable)*

Name Jim Tolley

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

Job Title President FPF

Address 343 West Madison St.  
*Street*

Phone 850 224 7333

Tallahassee FL 32301  
*City State Zip*

E-mail JimT@FPF.org

Speaking:  For  Against  Information

Representing Florida Professional Firefighters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28

Meeting Date

744

Bill Number (if applicable)

Topic CONDO

Amendment Barcode (if applicable)

Name ELLYN Bogdanoff

Job Title

Address 1 E Rnd Blvd

Phone

Street

City

State

Zip

Email

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

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

Representing Several Association

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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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)

3/28/17  
Meeting Date

744  
Bill Number (if applicable)

Topic Hi-Rise Sprinkler Retrofit

Amendment Barcode (if applicable)

Name William Stander

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

Address P.O. Box 1042  
Street  
Tallahassee, FL 32302  
City State Zip

Phone 850-212-3250

Email william@williamstander.com

Speaking:  For  Against  Information

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

Representing American Fire Sprinkler Association - FL Chapter

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/28

Meeting Date

SB744

Bill Number (if applicable)

Topic Fire Safety

Amendment Barcode (if applicable)

Name Buddy Dewar

Job Title CEO

Address 5501 TOURAINE DR

Phone 850-566-8733

TALAHASSEE FL 32308

Email GR8BUD@aol.com

City State Zip

Speaking:  For  Against  Information

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

Representing Florida Fire Sprinkler 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.

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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)

3/28/17  
Meeting Date

744  
Bill Number (if applicable)

Topic COMMUNITY ASSOC

Amendment Barcode (if applicable)

Name FRED DUDLEY

Job Title ATTY

Address 3522 THOMASVILLE RD. #301  
Street

Phone (850) 294-3471

TALL  
City

FL  
State

32309  
Zip

Email DUDLEY@MYLICENSELAW.COM

Speaking:  For  Against  Information  
BURBURY PROVISION

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

Representing ASSOCIATION OF CONSTRUCTION CONSUMERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/28/17  
Meeting Date

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

744  
Bill Number (if applicable)

Topic Community Associations

Amendment Barcode (if applicable)

Name Justin Thomas

Job Title Director of Governmental Affairs

Address 325 W/ College Ave

Phone \_\_\_\_\_

Street

City

State

Zip

32303

Email thomasj@ficpa.org

Speaking:  For  Against  Information

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

Representing Florida Institute of CPAs

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.

# APPEARANCE RECORD

3/28/17  
Meeting Date

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

744  
Bill Number (if applicable)

Topic Community Association

Amendment Barcode (if applicable)

Name STEVE PEAVEY

Job Title PAST PRESIDENT INTERNATIONAL FIRE MARSHALS ASSOC

Address 1120 PIEDMONT LAKE BLVD

Phone 407-832-7801

Street

APOPKA

City

FL

State

32703

Zip

Email SPEAVEY93@HOT.COM

Speaking:  For  Against  Information

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

Representing INTERNATIONAL FIRE MARSHALS ASSOC.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

---

Prepared By: The Professional Staff of the Committee on Regulated Industries

---

BILL: CS/SB 1272

INTRODUCER: Regulated Industries Committee and Senator Brandes

SUBJECT: Professional Regulation

DATE: March 28, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Fav/CS
2.			MS	
3.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1272, the “Occupational Opportunity Act,” grants and expands existing exemptions from professional licensure application and renewal requirements by certain boards and programs in the Department of Business and Professional Regulation (DBPR) for active duty members of the Armed Forces.<sup>1</sup> The bill requires the waiver of payment of initial application fees to certain active duty members of the Armed Forces, and eligible spouses and surviving spouses of such active duty members. Current law does not apply to surviving spouses.

Eligible spouses and surviving spouses in good standing with a DBPR board or program who are absent from the state due to the active duty member’s duties with the Armed Forces are exempted from licensure renewal provisions. The bill eliminates a requirement that both the active duty member and the spouse be assigned to a duty station in Florida. The period of time that active duty members remain in good standing after discharge from active duty is expanded from six months to two years.

The DBPR is required to issue a professional license to an applicant who holds a valid professional license issued by another jurisdiction, and who is or was an active duty member of the Armed Forces, or to a spouse or surviving spouse of an active duty member, if the application for such a license is accompanied by fingerprints for state and federal criminal

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<sup>1</sup> The term “Armed Forces” includes “the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.” See s. 250.01(4), F.S, and 5 U.S. Code § 2101 and 10 U.S. Code § 101(a)(4).

history checks, with proof that the applicant is, or was, an active duty member of the Armed Forces, or is married to an active duty member of the Armed Forces. The applicant must comply with any insurance or bonding requirements for the profession.

The bill provides that any of the boards or programs listed in s. 20.165, F.S., (i.e., the boards and programs within the DBPR) rather than the “administrative boards of the state” must maintain any active duty members of the Armed Forces in good standing to engage in his or her profession without registering or paying fees or dues.

The bill has a negative fiscal impact to state government and to the revenue from the General Revenue service charge. The bill provides for a nonrecurring sum of \$31,000 for Fiscal Year 2017-2018 to be appropriated from the Administrative Trust Fund to the DBPR for technology infrastructure and licensing modifications. See Section V, Fiscal Impact Statement.

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

## II. Present Situation:

### Department of Business and Professional Regulation

Section 20.165, F.S., establishes the organizational structure of the Department of Business and Professional Regulation (DBPR), and provides for 12 divisions.<sup>2</sup>

Fifteen boards and programs exist within the Division of Professions,<sup>3</sup> two boards are within the Division of Real Estate,<sup>4</sup> and one board exists in the Division of Certified Public Accounting.<sup>5</sup>

The boards and programs within the Division of Professions, noted with the respective chapter in Florida Statutes concerning each, are the:

- Board of Architecture and Interior Design, part I of ch. 481;
- Florida Board of Auctioneers, part VI of ch. 468;
- Barbers’ Board, ch. 476;
- Florida Building Code Administrators and Inspectors Board, part XII of ch. 468;
- Construction Industry Licensing Board, part I of ch. 489;
- Board of Cosmetology, ch. 477;
- Electrical Contractors’ Licensing Board, part II of ch. 489;
- Board of Employee Leasing Companies, part XI of ch. 468;
- Board of Landscape Architecture, part II of ch. 481;
- Board of Pilot Commissioners, ch. 310;
- Board of Professional Engineers, ch. 471;
- Board of Professional Geologists, ch. 492;

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<sup>2</sup> The divisions in the DBPR are: Administration, Alcoholic Beverages and Tobacco, Certified Public Accounting, Drugs, Devices, and Cosmetics, Florida Condominiums, Timeshares, and Mobile Homes, Hotels and Restaurants, Pari-mutuel Wagering, Professions, Real Estate, Regulation, Service Operations, and Technology.

<sup>3</sup> See s. 20.165(4)(a), F.S.

<sup>4</sup> See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

<sup>5</sup> See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

- Board of Veterinary Medicine, ch. 474;
- Home Inspection Services Licensing Program, part XV of ch. 468; and
- Mold-related Services Licensing Program, part XVI of ch. 468, F.S.<sup>6</sup>

The boards within the Division of Real Estate are the Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and the Florida Real Estate Commission, created under part I of ch. 475, F.S.<sup>7</sup>

The board within the Division of Certified Public Accounting is the Board of Accountancy, created under ch. 473, F.S.<sup>8</sup>

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.<sup>9</sup> The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law pursuant to parts I and III of ch. 450, F.S.

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the DBPR in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”<sup>10</sup>

Under Florida law, regulation of professions is undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”<sup>11</sup> Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.<sup>12</sup>

However, “neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.<sup>13</sup>

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.<sup>14</sup>

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<sup>6</sup> See s. 20.165(4)(a), F.S.

<sup>7</sup> See s. 20.165(4)(b), F.S.

<sup>8</sup> See s. 20.165(4)(c), F.S.

<sup>9</sup> Section 548.003(1), F.S.

<sup>10</sup> Section 455.01(6), F.S.

<sup>11</sup> Section 455.201(2), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 455.201(4)(b), F.S.

<sup>14</sup> See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a “permit, registration, certificate, or license” to the licensee.<sup>15</sup>

Sections 455.203 and 455.213, F.S., establish general licensing authority for the DBPR, including the authority to charge license fees and license renewal fees. Each board within the DBPR must determine by administrative rule<sup>16</sup> the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.<sup>17</sup>

A licensee may practice a profession only if the licensee has an active status license.<sup>18</sup> Generally, most licensees who practice a profession without an active status license<sup>19</sup> are subject to the imposition of discipline, fines, or assessments as described in s. 455.227, F.S. At least 90 days before the end of a licensure cycle, the DBPR must provide a licensure renewal notification to an active or inactive licensee, and a notice of pending cancellation of licensure to a delinquent status licensee.<sup>20</sup>

Each board, or the department when there is no board (board),<sup>21</sup> must permit a licensee to choose active or inactive status at the time of licensure renewal, and impose a fee for an inactive status license that does not exceed the fee for an active status license.<sup>22</sup> An inactive status licensee may change to active status at any time, if the licensee meets all requirements for active status, including payment of all required fees, and meeting all continuing education requirements. Failure of a licensee to renew a license before its expiration causes the license to become delinquent in the license cycle following expiration (delinquency cycle).<sup>23</sup>

A delinquent status licensee must re-apply for active or inactive status during the delinquency cycle. Failure by a delinquent status licensee to become active or inactive before the expiration of the delinquency cycle renders the license void, with no further action by the board.<sup>24</sup>

The DBPR may, at its discretion, reinstate a license that has become void (except public accountancy licenses issued under ch. 473, F.S.) if the DBPR determines that the individual failed to comply because of illness or economic hardship. The individual must apply to the

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<sup>15</sup> Sections 455.01(4) and (5), F.S.

<sup>16</sup> The administrative rules of the DBPR and of each Board are available through the DBPR’s website at <http://www.myfloridalicense.com/dbpr/divisions.html> (last visited Mar. 10, 2017).

<sup>17</sup> Section 455.219(1), F.S.

<sup>18</sup> Section 455.271(1), F.S.

<sup>19</sup> Section 455.271, F.S., on inactive and delinquent status of licenses, does not apply to a business establishment registered, permitted, or licensed by the department to do business or to a person licensed, permitted, registered, or certified pursuant to ch. 310, F.S. on Pilots, Piloting, and Pilotage, or ch. 475, F.S., on Real Estate Brokers, Sales Associates, Schools, and Appraisers.

<sup>20</sup> See s. 455.273, F.S.

<sup>21</sup> Whenever a board for a profession does not exist, the DBPR is generally authorized by law to act instead. See e.g., ss. 455.219 and 455.271, F.S., for multiple references to actions of “the board, or the department when there is no board.”

<sup>22</sup> The status or a change in status of a licensee does not alter the board’s right to impose discipline or to enforce discipline previously imposed on a licensee for acts or omissions committed by the licensee while holding a license, whether active, inactive, or delinquent. See s. 455.271(11), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

DBPR for reinstatement, pay all required fees, including a reinstatement fee, meet all continuing education requirements, and otherwise be eligible for renewal of licensure.<sup>25</sup>

Section 455.271(7), F.S., provides that each board must impose an additional delinquency fee, not to exceed the biennial renewal fee for an active status license, when a delinquent status licensee applies for active or inactive status.

### **United States Armed Forces**

The term “Armed Forces” is defined in Florida law as “the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.”<sup>26</sup> The term “active duty” means full-time duty in active military service of the United States, and includes other federal duty such as full-time training, annual training, and attendance at a service school<sup>27</sup> while a person is in active military service. The term also includes the period during which a person in active military service is absent from duty as a result of illness, being wounded, being on leave, or other lawful cause, but does not mean full-time duty in the National Guard.<sup>28</sup>

Pursuant to s. 455.02(1), F.S., active duty members of the Armed Forces of the United States who, at the time they became active duty members, held a license in good standing with any state administrative board, must be kept in good standing and are exempted from performing any required act or paying any fee, during the period of active duty service and for six months after discharge from active duty. If the licensee engages in the licensed profession or vocation in the private sector for profit, the exemption does not apply.

Boards within the DBPR must adopt rules exempting a spouse of an active duty member of the Armed Forces from licensure renewal requirements, but only if the spouse is absent from the state due to the active duty member’s duties with the Armed Forces.<sup>29</sup>

A six-month, nonrenewable temporary license may be issued to a spouse of an active duty member of the Armed Forces.<sup>30</sup> The application for such a license must be accompanied by the application fee and fingerprints for criminal history checks, with proof that the applicant:

- Is married to an active duty member of the Armed Forces;
- Holds a valid license issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction; and
- The applicant’s spouse is assigned to a duty station in Florida.<sup>31</sup>

Section 455.213(12), F.S. provides that the DBPR must waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if application for a license is made within 60 months after the veteran is

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<sup>25</sup> *Id.*

<sup>26</sup> *See* s. 250.01(4), F.S., and 5 U.S. Code § 2101 and 10 U.S. Code § 101(a)(4).

<sup>27</sup> *See* s. 250.01(1), F.S.; service schools must be designated by law or by the secretary of the applicable military department.

<sup>28</sup> *Id.*

<sup>29</sup> *See* s. 455.02(2), F.S.

<sup>30</sup> *See* s. 455.02(3)(a), F.S.

<sup>31</sup> *Id.*



honorably discharged. Eligibility for the waiver is conditioned upon the veteran having been honorably discharged.

**License Fee Waivers for Low-income Individuals**

Waivers of application fees for professional licenses issued in Florida are not based on the income of an applicant. The United States Department of Health and Human Services (HHS) has established the following federal poverty guidelines:<sup>32</sup>

Persons in Family/Household	Poverty Guideline for 48 Contiguous States and the District of Columbia	Poverty Guideline for Alaska	Poverty Guideline for Hawaii
1	\$12,060	\$15,060	\$13,860
2	\$16,240	\$20,290	\$18,670
3	\$20,420	\$25,520	\$23,480
4	\$24,600	\$30,750	\$28,290
5	\$28,780	\$35,980	\$33,100
6	\$32,960	\$41,210	\$37,910
7	\$37,140	\$46,440	\$42,720
8	\$41,320	\$51,670	\$47,530

The term ‘public assistance’ refers to government aid to the poor, disabled, or aged, or to dependent children.<sup>33</sup> One example of an income-dependent public assistance program<sup>34</sup> is the Supplemental Nutrition Assistance Program (SNAP) for nutrition assistance and benefits to low-income individuals and families. Eligibility for SNAP benefits is dependent upon meeting certain gross income and net income limits.<sup>35</sup>

**III. Effect of Proposed Changes:**

**Section 1** of the bill provides that the act may be cited as the “Occupational Opportunity Act.”

**Section 2** of the bill revises a reference in s. 455.02(1), F.S., concerning licensure of active duty members of the Armed Forces<sup>36</sup> in good standing, to require good standing status with any “of the boards or programs listed in s. 20.165, F.S. (the DBPR boards). Under current law, the reference is to “administrative boards of the state.”

The bill provides that a spouse married to an active duty member of the Armed Forces during a period of active duty, or a surviving spouse of a member who was on active duty at the time of death, is exempted from licensure renewal provisions and must be kept in good standing,

<sup>32</sup> See <https://aspe.hhs.gov/poverty-guidelines> (last visited Mar. 24, 2017).

<sup>33</sup> See <http://www.dictionary.com/browse/public-assistance> (last visited Mar. 24, 2017).

<sup>34</sup> Comprehensive lists of available public assistance programs per state are located on the official benefits website of the United States government; see Benefits.gov, *About Us*, at <https://www.benefits.gov/about-us> (last visited Mar. 24, 2017).

<sup>35</sup> See <https://www.fns.usda.gov/snap/eligibility#Income> (last visited Mar. 24 2017).

<sup>36</sup> The term “Armed Forces” includes “the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.” See s. 250.01(4), F.S, and 5 U.S. Code § 2101 and 10 U.S. Code § 101(a)(4).

provided the spouse is in good standing with a DBPR board and is absent from the state due to the active duty member's duties with the Armed Forces.

The DBPR is required to issue a professional license to an applicant who is or was an active duty member of the Armed Forces, or to a spouse or surviving spouse of an active duty member, if the application for such a license is accompanied by the application fee and fingerprints for criminal history checks, with proof that the applicant is, or was, an active duty member of the Armed Forces, is married to an active duty member of the Armed Forces, or was married to an active duty member of the Armed Forces at the time of the member's death.

The bill:

- Eliminates a requirement that both the active duty member and the spouse be assigned to a duty station in Florida.
- Retains the requirement in current law that proof that an applicant holds a valid license issued by another state, the District of Columbia, any possession or territory of the United States, or any foreign jurisdiction must be provided.
- Retains the requirement in current law requiring fingerprints of an applicant to be submitted for use in state and federal criminal history checks.
- Authorizes an applicant who is or was an active duty member of the Armed Forces, or a spouse or surviving spouse of an active duty member, who has been issued a license to renew the license upon completing all requirements for renewal under the applicable practice act, including but not limited to continuing education requirements.
- Provides that waiver of initial licensure requirements are not affected by the licensure renewal requirements for an applicant who is or was an active duty member of the Armed Forces, or a spouse or surviving spouse of an active duty member.

The restrictions in current law that a temporary license is not renewable and expires six months after the date of issuance are eliminated.

**Section 3** of the bill creates s. 455.219(7), F.S., to require the DBPR to waive the initial application fee for an exempted active duty applicant or a low-income individual. The bill requires that the application include the applicant's signature under penalty of perjury and the supporting documentation required by the DBPR.

The term "low income individual" is defined in the bill as a person whose household income before taxes is at or below 130 percent of the federal poverty guidelines for the size of the family's household size, by the United States Department of Health and Human Services. Proof of eligibility may be shown through enrollment in a state or federal public assistance program that requires participants to be at or below 130 percent of the federal poverty guidelines to qualify.

The DBPR, or the appropriate board, must process an application for a fee waiver within thirty days of receiving the application. The bill provides that the DBPR must adopt rules necessary to implement s. 455.219(7), F.S., created in the bill.

**Section 4** of the bill provides for a nonrecurring sum of \$31,000 for Fiscal Year 2017-2018 to be appropriated from the Administrative Trust Fund to the DBPR for technology infrastructure and licensing modifications.

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

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Department of Business and Professional Regulation (DBPR) notes that SB 1272 will have an indeterminate impact upon fees because of the difficulty of estimating how many members of the Armed Forces, their spouses, surviving spouses, and low-income persons will apply for a waiver of initial license application fees.<sup>37</sup> The DBPR indicates that other “licenses may have to assume the additional cost of processing the applications [for those exempted by the bill from paying license fees].”<sup>38</sup>

B. Private Sector Impact:

The DBPR indicates there is no fiscal impact to the private sector.<sup>39</sup>

C. Government Sector Impact:

CS/SB 1272 provides for a nonrecurring sum of \$31,000 for Fiscal Year 2017-2018 to be appropriated from the Administrative Trust Fund to the DBPR for technology infrastructure and licensing modifications.

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<sup>37</sup> See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for HB 615 (identical to SB 1272), dated Feb. 27, 2017, (on file with Senate Committee on Regulated Industries) at pages 4 - 5.

<sup>38</sup> *Id.* at page 5.

<sup>39</sup> *Id.* at pages 4-5.

The DBPR indicates that the fiscal impact is indeterminate due to the unknown number of members of the Armed Forces, their spouses, surviving spouses, and low-income persons will apply for a waiver of initial license application fees.<sup>40</sup>

The DBPR now appears to estimate that expenditures of \$393,880 in Fiscal Year 2017-2018, \$346,340 in Fiscal Year 2018-2019, and \$346,340 in Fiscal Year 2019-2020 will be required to implement SB 1272.<sup>41</sup> How these estimates were calculated is not fully explained by the DBPR.<sup>42</sup> The DBPR indicates that specific technology infrastructure and licensing costs will result in non-recurring costs of \$16,943.03, and recurring costs of \$2,908.82. The DBPR does not provide an estimate for the costs of additional staff, but estimates that 6.5 positions (FTE) will be needed.<sup>43</sup>

According to the Department of Business and Professional Regulation (DBPR), SB 1272 will require modifications to its software to address the various license types for all the professions it regulates, (Versa: Regulation (VR)) , including an application to identify active duty members of the Armed Forces, their spouses, surviving spouses, as well as low-income individuals, changes to fee calculations, and changes to application and renewal requirements.<sup>44</sup> According to the DBPR, these modifications can be made using existing resources.<sup>45</sup>

The Division of Professions in the DBPR indicates that, because the licensure requirements of other states and foreign governments may differ from those in Florida, the impact on the health, safety, and welfare of Floridians cannot be determined.<sup>46</sup> Furthermore, those licensed as permitted under SB 1272 “may be at a higher risk of non-compliance regarding professional standards of care and regulatory requirements.”<sup>47</sup>

The DBPR Office of the General Counsel notes that rulemaking is necessary to implement provisions in SB 1272.<sup>48</sup>

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<sup>40</sup> *Id.* at page 4.

<sup>41</sup> See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for CS/CS/HB 615, dated Mar. 13, 2017 (on file with Senate Committee on Regulated Industries) at page 4.

However, in the Agency Analysis of HB 615 and SB 1272 dated Feb. 27, 2017, (*supra* at note 37, at pages 4 and 6), the DBPR estimated that 11.5 additional staff positions would be needed, with expenditures of \$701,264 in Fiscal Year 2017-2018, \$624,834 in Fiscal Year 2018-2019, and \$624,834 in Fiscal Year 2019-2020. The substantive differences between CS/CS/HB 615 and SB 1272 do not appear to affect the implementation costs to the DBPR for the bills.

<sup>42</sup> *Id.* at pages 4 – 9. See also, Agency Analysis of HB 615 and SB 1272 dated Feb. 27, 2017 (*supra* at note 37, at pages 4 - 8).

<sup>43</sup> *Id.* at pages 4 – 9. Apparently, the balance of the recurring costs for the 6.5 positions that the DBPR indicates will be required to implement the bill is the difference between the \$393,880 of estimated expenditure to implement the bill in Fiscal Year 2017-2018 and the \$2,908.82 for recurring technology costs (i.e., \$390,971.08).

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

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

<sup>46</sup> *Id.* at pages 6-7.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at page 7.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

CS/SB 1272 requires that the initial application fee be waived for active duty members, their spouses, and surviving spouses fee for certain professional licenses, for a period of two years after discharge from active duty, provided he or she does not engage in the licensed profession or vocation in the private sector for profit. Under current law, honorably discharged military veterans, and their spouses at the time of such discharge, are granted a waiver of all initial licensing fees, initial application fees, and initial unlicensed activity fees, if an application for initial licensure is made within 60 months of the discharge.<sup>49</sup> The different requirements for waiver of initial application and other fees for professional licensure for active duty members and certain spouses, and for honorably discharged veterans and their spouses, may cause confusion to active duty and retired members of the Armed Forces, their spouses, and the public.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 455.02 and 455.219.

**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 Regulated Industries on March 28, 2017:**

The committee substitute:

- Clarifies that the bill also applies to DBPR programs as well as DBPR boards;
- Requires that applicants comply with bonding or insurance requirements if required by a specific practice act;
- Clarifies the definition of the term ‘low-income individual; and
- Provides for Fiscal Year 2017-2018 a nonrecurring sum of \$31,000 to be appropriated from the Administrative Trust Fund for technology infrastructure and licensing modifications required to implement the bill.

**B. Amendments:**

None.

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

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<sup>49</sup> See s. 455.213(12), F.S.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2017	.	
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The Committee on Regulated Industries (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 33 - 135  
and insert:  
administrative boards or programs.-

(1) Any member of the Armed Forces of the United States now or hereafter on active duty who, at the time of becoming such a member, was in good standing with any of the boards or programs listed in s. 20.165 ~~administrative board of the state~~ and was entitled to practice or engage in his or her profession or



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11 vocation in the state shall be kept in good standing by the  
12 applicable ~~such administrative board or program~~, without  
13 registering, paying dues or fees, or performing any other act on  
14 his or her part to be performed, as long as he or she is a  
15 member of the Armed Forces of the United States on active duty  
16 and for a period of 2 years ~~6 months~~ after discharge from active  
17 duty as a member of the Armed Forces of the United States, if he  
18 or she is not engaged in his or her licensed profession or  
19 vocation in the private sector for profit.

20 (2) A spouse of a member of the Armed Services of the  
21 United States who is married to a member during a period of  
22 active duty, or a surviving spouse of a member who at the time  
23 of death was serving on active duty, ~~The boards listed in s.~~  
24 ~~20.165 shall adopt rules that exempt the spouse of a member of~~  
25 ~~the Armed Forces of the United States who is in good standing~~  
26 with any of the boards or programs listed in s. 20.165 shall be  
27 kept in good standing by the applicable board or program as  
28 described in subsection (1) and shall be exempt from licensure  
29 renewal provisions, but only in cases of his or her absence from  
30 the state because of his or her spouse's duties with the Armed  
31 Forces.

32 (3) (a) The department shall ~~may~~ issue a ~~temporary~~  
33 professional license to an applicant who is or was the spouse of  
34 an active duty member of the Armed Forces of the United States,  
35 or who is a spouse or surviving spouse of such member, upon  
36 application ~~if the spouse applies~~ to the department in a the  
37 format prescribed by the department. An application must include  
38 proof that:

39 1. The applicant is or was an active duty member of the





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40 Armed Forces of the United States or is married to a member of  
41 the Armed Forces of the United States and was married to the  
42 member during any period of ~~who is on~~ active duty or was married  
43 to such a member who at the time of the member's death was  
44 serving on active duty.

45         2. The applicant holds a valid license for the profession  
46 issued by another state, the District of Columbia, any  
47 possession or territory of the United States, or any foreign  
48 jurisdiction.

49         3. The applicant, when required by the specific practice  
50 act, has complied with insurance or bonding requirements ~~The~~  
51 ~~applicant's spouse is assigned to a duty station in this state~~  
52 ~~and that the applicant is also assigned to a duty station in~~  
53 ~~this state pursuant to the member's official active duty~~  
54 ~~military orders.~~

55         4.a. A complete set of the applicant's fingerprints is  
56 submitted to the Department of Law Enforcement for a statewide  
57 criminal history check.

58         b. The Department of Law Enforcement shall forward the  
59 fingerprints submitted pursuant to sub-subparagraph a. to the  
60 Federal Bureau of Investigation for a national criminal history  
61 check. The department shall, and the board may, review the  
62 results of the criminal history checks according to the level 2  
63 screening standards in s. 435.04 and determine whether the  
64 applicant meets the licensure requirements. The costs of  
65 fingerprint processing shall be borne by the applicant. If the  
66 applicant's fingerprints are submitted through an authorized  
67 agency or vendor, the agency or vendor shall collect the  
68 required processing fees and remit the fees to the Department of



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69 Law Enforcement.

70 (b) The department shall waive the applicant's initial  
71 licensure application fee ~~An application must be accompanied by~~  
72 ~~an application fee prescribed by the department that is~~  
73 ~~sufficient to cover the cost of issuance of the temporary~~  
74 ~~license.~~

75 (c) An applicant who is issued a license under this section  
76 may renew such license upon completion of the conditions for  
77 renewal required of licenseholders under the applicable practice  
78 act, including, without limitation, continuing education  
79 requirements. This paragraph does not limit waiver of initial  
80 licensure requirements under this subsection ~~A temporary license~~  
81 ~~expires 6 months after the date of issuance and is not~~  
82 ~~renewable.~~

83 Section 3. Subsection (7) is added to section 455.219,  
84 Florida Statutes, to read:

85 455.219 Fees; receipts; disposition; periodic management  
86 reports.—

87 (7) (a) The department, or a board thereunder, shall waive  
88 the initial licensing fee for a member of the Armed Services of  
89 the United States that has served on active duty, the spouse of  
90 a member of the Armed Services of the United States who was  
91 married to the member during a period of active duty, the  
92 surviving spouse of a member of the Armed Services of the United  
93 States who at the time of death was serving on active duty, or a  
94 low-income individual upon application by the individual in a  
95 format prescribed by the department. The application format must  
96 include the applicant's signature, under penalty of perjury, and  
97 supporting documentation as required by the department. For



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98 purposes of this subsection, the term "low-income individual"  
99 means a person whose household income, before taxes, is at or  
100 below 130 percent of the federal poverty guidelines prescribed  
101 for the family's household size by the United States Department  
102 of Health and Human Services, proof of which may be shown  
103 through enrollment in a state or federal public assistance  
104 program that requires participants to be at or below 130 percent  
105 of the federal poverty guidelines to qualify.

106 (b) The department, or a board thereunder, shall process an  
107 application for a fee waiver within 30 days after receiving it  
108 from the applicant.

109 (c) The department shall adopt rules necessary to implement  
110 the provisions of this subsection.

111 Section 4. For the 2017-2018 fiscal year, the nonrecurring  
112 sum of \$31,000 from the Administrative Trust Fund is  
113 appropriated to the Department of Business and Professional  
114 Regulation for costs associated with technology infrastructure  
115 and licensing modifications needed for the purposes of  
116 implementing this act.

117  
118 ===== T I T L E A M E N D M E N T =====

119 And the title is amended as follows:

120 Delete lines 6 - 22

121 and insert:

122 standing with an administrative board or program under  
123 certain circumstances; requiring that a spouse or  
124 surviving spouse be kept in good standing and be  
125 exempt from licensure renewal provisions under certain  
126 circumstances; requiring, rather than authorizing, the



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127 Department of Business and Professional Regulation to  
128 issue a professional license, rather than a temporary  
129 license, to specified applicants; revising application  
130 requirements; requiring the department to waive the  
131 applicant's initial licensure application fee;  
132 authorizing licensure renewal; amending s. 455.219,  
133 F.S.; providing for a fee waiver for active duty  
134 members of the Armed Forces, certain spouses or  
135 surviving spouses of an active duty member, and low-  
136 income individuals; defining the term "low-income  
137 individual"; providing rulemaking authority; providing  
138 an appropriation; providing an effective

By Senator Brandes

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1                   A bill to be entitled  
2           An act relating to professional regulation; providing  
3           a short title; amending s. 455.02, F.S.; revising the  
4           length of time that an active duty member of the Armed  
5           Forces of the United States may remain in good  
6           standing with an administrative board under certain  
7           circumstances; requiring that a spouse or surviving  
8           spouse be kept in good standing and be exempt from  
9           licensure renewal provisions under certain  
10          circumstances; requiring, rather than authorizing, the  
11          Department of Business and Professional Regulation to  
12          issue a professional license, rather than a temporary  
13          license, to specified applicants; revising application  
14          requirements; requiring the department to waive the  
15          applicant's initial licensure application fee;  
16          authorizing licensure renewal; amending s. 455.219,  
17          F.S.; providing for a fee waiver for active duty  
18          members of the Armed Services, certain spouses or  
19          surviving spouses of an active duty member and low-  
20          income individuals; requiring an application for a fee  
21          waiver to be processed within a specified time;  
22          providing rulemaking authority; providing an effective  
23          date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. This act may be cited as the "Occupational  
28 Opportunity Act."

29           Section 2. Section 455.02, Florida Statutes, is amended to

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30 read:

31 455.02 Licensure of members of the Armed Forces in good  
32 standing and their spouses or surviving spouses with  
33 administrative boards.-

34 (1) Any member of the Armed Forces of the United States now  
35 or hereafter on active duty who, at the time of becoming such a  
36 member, was in good standing with any of the boards listed in s.  
37 20.165 administrative board of the state and was entitled to  
38 practice or engage in his or her profession or vocation in the  
39 state shall be kept in good standing by the applicable such  
40 ~~administrative~~ board, without registering, paying dues or fees,  
41 or performing any other act on his or her part to be performed,  
42 as long as he or she is a member of the Armed Forces of the  
43 United States on active duty and for a period of 2 years ~~6~~  
44 ~~months~~ after discharge from active duty as a member of the Armed  
45 Forces of the United States, if he or she is not engaged in his  
46 or her licensed profession or vocation in the private sector for  
47 profit.

48 (2) A spouse of a member of the Armed Services of the  
49 United States who is married to a member during a period of  
50 active duty, or a surviving spouse of a member who at the time  
51 of death was serving on active duty, ~~The boards listed in s.~~  
52 ~~20.165 shall adopt rules that exempt the spouse of a member of~~  
53 ~~the Armed Forces of the United States~~ who is in good standing  
54 with any of the boards listed in s. 20.165 shall be kept in good  
55 standing by the applicable board as described in subsection (1)  
56 and shall be exempt from licensure renewal provisions, but only  
57 in cases of his or her absence from the state because of his or  
58 her spouse's duties with the Armed Forces.

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59 (3) (a) The department shall ~~may~~ issue a ~~temporary~~  
60 professional license to an applicant who is or was ~~the spouse of~~  
61 an active duty member of the Armed Forces of the United States,  
62 or who is a spouse or surviving spouse of such member, ~~if the~~  
63 ~~spouse upon application applies~~ to the department in a ~~the~~  
64 format prescribed by the department. An application must include  
65 proof that:

66 1. The applicant is or was an active duty member of the  
67 Armed Forces of the United States or is married to a member of  
68 the Armed Forces of the United States and was married to the  
69 member during any period of ~~who is on~~ active duty or was married  
70 to such a member who at the time of the member's death was  
71 serving on active duty.

72 2. The applicant holds a valid license for the profession  
73 issued by another state, the District of Columbia, any  
74 possession or territory of the United States, or any foreign  
75 jurisdiction.

76 ~~3. The applicant's spouse is assigned to a duty station in~~  
77 ~~this state and that the applicant is also assigned to a duty~~  
78 ~~station in this state pursuant to the member's official active~~  
79 ~~duty military orders.~~

80 3.a.4.a. A complete set of the applicant's fingerprints is  
81 submitted to the Department of Law Enforcement for a statewide  
82 criminal history check.

83 b. The Department of Law Enforcement shall forward the  
84 fingerprints submitted pursuant to sub-subparagraph a. to the  
85 Federal Bureau of Investigation for a national criminal history  
86 check. The department shall, and the board may, review the  
87 results of the criminal history checks according to the level 2

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88 screening standards in s. 435.04 and determine whether the  
89 applicant meets the licensure requirements. The costs of  
90 fingerprint processing shall be borne by the applicant. If the  
91 applicant's fingerprints are submitted through an authorized  
92 agency or vendor, the agency or vendor shall collect the  
93 required processing fees and remit the fees to the Department of  
94 Law Enforcement.

95 (b) The department shall waive the applicant's initial  
96 licensure application fee ~~An application must be accompanied by~~  
97 ~~an application fee prescribed by the department that is~~  
98 ~~sufficient to cover the cost of issuance of the temporary~~  
99 ~~license.~~

100 (c) An applicant who is issued a license under this section  
101 may renew such license upon completion of the conditions for  
102 renewal required of licenseholders under the applicable practice  
103 act, including, without limitation, continuing education  
104 requirements. This paragraph does not limit waiver of initial  
105 licensure requirements under this subsection. ~~A temporary~~  
106 ~~license expires 6 months after the date of issuance and is not~~  
107 ~~renewable.~~

108 Section 3. Subsection (7) is added to section 455.219,  
109 Florida Statutes, to read:

110 455.219 Fees; receipts; disposition; periodic management  
111 reports.—

112 (7) (a) The department, or a board thereunder, shall waive  
113 the initial licensing fee for a member of the Armed Services of  
114 the United States that has served on active duty, the spouse of  
115 a member of the Armed Services of the United States who was  
116 married to the member during a period of active duty, the



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117 surviving spouse of a member of the Armed Services of the United  
118 States who at the time of death was serving on active duty, or a  
119 low-income individual upon application by the individual in a  
120 format prescribed by the department. The application format must  
121 include the applicant's signature, under penalty of perjury, and  
122 supporting documentation as required by the department. For  
123 purposes of this subsection, the term "low-income individual"  
124 means a person whose household income, before taxes, is at or  
125 below 130 percent of the federal poverty guidelines prescribed  
126 for the family's household size by the United States Department  
127 of Health and Human Services or a person who is enrolled in a  
128 state or federal public assistance program, including, but not  
129 limited to, Temporary Assistance for Needy Families, Medicaid,  
130 or Supplemental Nutrition Assistance Program.

131 (b) The department, or a board thereunder, shall process an  
132 application for a fee waiver within 30 days of receiving it from  
133 the applicant.

134 (c) The department shall adopt rules necessary to implement  
135 the provisions of this subsection.

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson, Committee  
on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** March 7th, 2016

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I respectfully request that **Senate Bill #1272**, relating to **Professional Regulation**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24

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

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

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/CS/SB 860

INTRODUCER: Regulated Industries Committee; Community Affairs Committee and Senator Brandes and others

SUBJECT: Florida Building Code

DATE: March 28, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Kraemer</u>	<u>McSwain</u>	<u>RI</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 860 makes numerous changes to ch. 468, F.S., to address the shortage of building code inspectors and plans examiners.

Specifically, the bill creates an internship path for certification as a building code inspector or plans examiner.

The bill also requires the Florida Building Code Administrators and Inspectors Board to issue a provisional certificate to any building code inspector or plans examiner who meets certain eligibility requirements. Furthermore, a person may perform the duties of a plan examiner or building code inspector for 120 days if he or she submits a provisional certificate application and is under the direct supervision of a certified building code administrator. Under current law, the provisional certificate and the authorization to perform plan examiner and building code inspector duties may be issued only to newly employed or promoted building code inspectors and plans examiners.

The process by which revisions are made to the Florida Building Code is revised by the bill. Current law requires the Florida Building Commission (Commission) to revise the Florida Building Code every three years to automatically adopt the most recent versions of the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code

(IECC) into the foundation of the Florida Building Code. Additionally, under current law, amendments and modifications to the Florida Building Code only remain in effect until the effective date of a new edition of the Florida Building Code.

Under the new process, the Commission will start with the current Florida Building Code and evaluate the changes made in the I-Codes and the IECC and adopt the changes the Commission deems appropriate. However, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a three-year cycle.

The bill also requires the Commission to adopt the Florida Building Code by a three-fourths vote of the members present.

The bill has a minimal negative fiscal impact to state government and to the revenue from the General Revenue service charge. See Section V, Fiscal Impact Statement.

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

## **II. Present Situation:**

### **The Florida Building Code and the Florida Building Commission**

In 1974, Florida adopted a state minimum building code law requiring all local governments to adopt and enforce a building code that would ensure minimum standards for the public's health and safety. Four separate model codes were available that local governments could consider and adopt. In that system, the state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.<sup>1</sup>

In 1996, a study commission was appointed to review the system of local codes created by the 1974 law and to make recommendations for modernizing the entire system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and an enhanced oversight role for the state in local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002. In 2004, for the second edition of the Florida Building Code, the state adopted the International Code Council's I-Codes.<sup>2</sup> All subsequent Florida Building Codes have been adopted utilizing the I-Codes as the base code. The most recent Florida Building Code is the fifth

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<sup>1</sup> The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at [http://www.floridabuilding.org/fbc/publications/2006\\_Legislature\\_Rpt\\_rev2.pdf](http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf) (last visited Mar. 24, 2017).

<sup>2</sup> The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." The ICC publishes I-Codes: a complete set of model comprehensive, coordinated building safety and fire prevention codes, for all aspects of construction, that have been developed by ICC members. All 50 states have adopted the I-Codes.

edition which is referred to as the 2014 Florida Building Code. The 2014 Florida Building Code went into effect June 30, 2015.<sup>3</sup>

The Florida Building Commission (Commission) was statutorily created to implement the Florida Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body responsible for the development, maintenance, and interpretation of the Florida Building Code.<sup>4</sup> The Commission also approves products for statewide acceptance. Members are appointed by the Governor and confirmed by the Senate and include design professionals, contractors, and government experts in the various disciplines covered by the Florida Building Code.<sup>5</sup>

Most substantive issues before the Commission are vetted through a workgroup process where consensus recommendations are developed and submitted by appointed representative stakeholder groups in an open process with several opportunities for public input.

According to the Commission,

General consensus is a participatory process whereby, on matters of substance, the members strive for agreements which all of the members can accept, support, live with or agree not to oppose. In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on substantive decisions, and the Commission finds that 100 percent acceptance or support is not achievable, final decisions require at least 75 percent favorable vote of all members present and voting.<sup>6</sup>

### **Building Code Cycle**

Pursuant to s. 553.73(7)(a), F.S., the Commission must update the Florida Building Code every 3 years. When updating the Florida Building Code, the Commission is required to use the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, the International Residential Code, and the International Electrical Code. These I-Codes form the foundation codes of the updated Florida Building Code.

Any amendments or modifications to the foundation codes found within the Florida Building Code remain in effect only until the effective date of a new edition of the Florida Building Code, every 3 years.<sup>7</sup> At that point, the amendments or modifications to the foundation codes are removed, unless the amendments or modifications are related to state agency regulations or are related to the wind-resistance design of buildings and structures within the high-velocity

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<sup>3</sup> Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Mar. 24, 2017).

<sup>4</sup> See <http://www.myfloridalicense.com/dbpr/bcs/buildingcomm.html> (last visited Mar. 24, 2017).

<sup>5</sup> Section 553.74, F.S.

<sup>6</sup> Florida Building Commission, Florida Building Commission Consensus-Building Process, *available at* [http://www.floridabuilding.org/fbc/commission/FBC\\_0608/Commission/FBC\\_Discussion\\_and\\_Public\\_Input\\_Processes.htm](http://www.floridabuilding.org/fbc/commission/FBC_0608/Commission/FBC_Discussion_and_Public_Input_Processes.htm) (last visited Mar. 24, 2017).

<sup>7</sup> Section 553.73(7)(g), F.S.

hurricane zone of Miami-Dade and Broward Counties, which are carried forward into the next edition of the Florida Building Code.

When a provision of the current Florida Building Code is not part of the foundation codes, an industry member or another interested party must resubmit the provision to the Commission during the Florida Building Code adoption process in order to be considered for the next edition of the Florida Building Code.<sup>8</sup>

### **Amendments between Cycles**

Section 553.73(8), F.S., authorizes the Commission to approve amendments pursuant to the rule adoptions procedure in ch. 120, F.S., which are needed to address:

- Conflicts within the updated Florida Building Code;
- Conflicts between the updated Florida Building Code and the Florida Fire Prevention Code adopted pursuant to ch. 633, F.S.;
- Unintended results from the integration of the previously adopted Florida-specific amendments;
- Equivalency of standards;
- Changes to or inconsistencies with federal or state law; or
- Adoption of an updated edition of the National Electrical Code if the Commission finds that delay of implementing the updated edition causes undue hardship to stakeholders or otherwise threatens the public health, safety, and welfare.

However, the Commission may not approve amendments that would weaken the construction requirements relating to wind resistance or the prevention of water intrusion.

The Commission may also approve technical amendments to the Florida Building Code once a year for statewide or regional application if the amendment:<sup>9</sup>

- Is needed in order to accommodate the specific needs of Florida.
- Has a reasonable and substantial connection with the health, safety, and welfare of the general public.
- Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.
- Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.
- Does not degrade the effectiveness of the Florida Building Code.

### **The 6<sup>th</sup> Edition of the Florida Building Code**

The Commission is currently conducting its rule development process for the 6<sup>th</sup> edition of the Florida Building Code. Under s. 553.73(7)(e), F.S., a rule updating the Florida Building Code does not take effect until six months after the publication of the updated Florida Building Code.

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<sup>8</sup> Section 553.73(7)(g), F.S.

<sup>9</sup> Section 553.73(9), F.S.

The 6<sup>th</sup> edition of the Florida Building Code is tentatively expected to go into effect on December 31, 2017.<sup>10</sup>

The 6<sup>th</sup> edition of the Florida Building Code will incorporate the latest version of the I-Codes (2015). The next edition of the I-Codes will be the 2018 I-Codes.

### **Voting Processes for the Technical Advisory Committees and the Commission**

Under s. 553.73(3)(b), F.S., in order for a technical advisory committee to make a favorable recommendation to the Commission, the proposal must receive a three-fourths vote of the members present at the meeting, and at least half of the regular members must be present in order to conduct the meeting.

Rule 61G20-2.002(7), Florida Administrative Code, provides a similar requirement for votes taken by the Commission. Specifically, the rule provides that “[t]he decision of the Commission to approve a proposed amendment shall be by 75% vote. Those proposals failing to meet the vote requirement shall not be adopted.”

### **Building Code Administrators, Plans Examiners, and Inspectors Certifications**

#### ***Building Code Inspector and Plans Examiner***

In order to take the examination for building code inspector or plans examiner certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- **Option 1:** Demonstrate 5 years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought.
- **Option 2:** Demonstrate 4 years of a combination of postsecondary education in the field of construction or a related field and experience, with at least 1 year of experience in construction, building code inspection, or plans review.
- **Option 3:** Demonstrate 4 years of a combination of technical education in the field of construction or a related field and experience, with at least 1 year of experience in construction, building code inspection, or plans review.
- **Option 4:** Currently hold a standard certificate as issued by the Florida Building Code Administrators and Inspectors Board (FBCAIB), or a fire safety inspector license issued pursuant to ch. 633, F.S.; have a minimum of 3 years of verifiable full-time experience in inspection or plan review; and satisfactorily complete an approved building code inspector or plans examiner training program of at least 100 hours but not more than 200 hours in the certification category sought.
- **Option 5:** Demonstrate a minimum of 2 years combined experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a firesafety inspector, or construction; and the completion of an approved training program in the field of building code inspection or plan review of at least 200 hours but not more than

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<sup>10</sup> 6<sup>th</sup> Edition (2017) FBC Code Update Development Tasks, *available at* [http://www.floridabuilding.org/fbc/thecode/2017\\_Code\\_Development/Timelines/FBC\\_WorkplanOption1-2015.pdf](http://www.floridabuilding.org/fbc/thecode/2017_Code_Development/Timelines/FBC_WorkplanOption1-2015.pdf) (Last visited March 14, 2017).

300 hours in the certification category sought, with at least 20 hours but not more than 30 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.

- Option 6: Currently hold a standard certificate issued by the FBCAIB or a firesafety inspector license if the person also:
  - Has at least 5 years of verifiable full-time experience as a building code inspector, plans examiner, or licensed firesafety inspector; and
  - Satisfactorily completes a building code inspector or plans examiner classroom training course or program that provides between 200 and 300 hours in the certification category sought, except for one-family and two-family dwelling training programs which are required to provide between 500 and 800 hours of training as prescribed by the FBCAIB.<sup>11</sup>

The FBCAIB must accept all classroom training offered by an approved provider if the content substantially meets the intent of the classroom component of the training program.<sup>12</sup>

Under s. 468.609(7), F.S., the FBCAIB is required to provide for the issuance of provisional 1-year certificates for certain newly employed or promoted building code inspectors or plans examiners; and to provide appropriate levels of such provisional certificates.

Additionally, a newly employed or hired person may perform the duties of the plans examiner or building code inspector for 120 days if a provisional certificate application has been submitted and the newly employed or hired person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found the person qualified for a provisional certificate.<sup>13</sup>

### ***Building Code Administrator***

In order to take the examination for building code administrator certification, a person must be at least 18 years of age, be of good moral character, and meet one of the following eligibility requirements:

- Option 1: Demonstrate 10 years of combined experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of experience in supervisory positions; or
- Option 2: Demonstrate 10 years of a combination of experience as an architect, engineer, plans examiner, building code inspector, registered or certified contractor, or construction superintendent, with at least 5 years of supervisory experience, and postsecondary education in the field of construction or related field, of which no more than 5 years may be applied. The individual must have also completed between 20 and 30 hours training in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificate holder.<sup>14</sup>

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<sup>11</sup> Section 468.609(2), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 468.609(7)(d), F.S.

<sup>14</sup> Section 468.609(3), F.S.



### ***Private Providers***

Section 553.791(1)(i), F.S., defines “private provider” as a licensed engineer or a licensed architect who performs inspections on residential buildings in certain circumstances and, for additions and alterations under 1,000 square feet, the term also applies to individuals who hold a standard license under part XII of Chapter 468.

Private providers are authorized to contract with property owners and local building departments to conduct plans review and building code inspections.<sup>15</sup>

### **Construction Industry Workforce Task Force**

Single-family building permit activity, an indicator of new construction, reached its peak in Florida in 2005. During the recent recession, new construction declined significantly, bottoming out in 2009. New construction has increased in recent years, but there are anecdotal reports that contractors are having a hard time finding skilled labor.

Because of the skilled labor shortage, the Legislature created the Construction Industry Workforce Task Force within the University of Florida M.E. Rinker, Sr., School of Construction Management in 2016.<sup>16</sup> The goals of the task force were to:

- Address the critical shortage of individuals trained in building construction and inspection.
- Develop a consensus path for training the next generation of construction workers in the state.
- Determine 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.
- Review current methods and resources available for construction training.
- Review the state of construction training available in K-12 schools.
- Address training issues relating to building code inspectors to increase the number of qualified inspectors.

The task force consisted of 23 members, representing various construction industries and the Legislature. The task force elected a chair from among its members. The University of Florida M.E. Rinker, Sr., School of Construction Management was required to provide assistance to the task force in carrying out its responsibilities.

The task force submitted a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives in January 2017, which states that the construction and building profession is attracting fewer construction related workers.<sup>17</sup> Florida requires five years of construction trade experience in order to obtain an inspector license.<sup>18</sup> Given the stringent educational requirements, contractors often prefer working in the construction trades rather than becoming inspectors.

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<sup>15</sup> DBPR, Legislative Bill Analysis for SB 860, pp. 2-3, (March 9, 2017)

<sup>16</sup> Chapter 2016-129, s. 31, Laws of Fla.

<sup>17</sup> Florida Workforce Taskforce Report, prepared by the University of Florida, p. 12, available at <http://www.cce.ufl.edu/wp-content/uploads/2016/12/6-Florida-Construction-Workforce-Taskforce-Address-training-issues-among-building-code-inspectors-to-increase-the-number-qualified-1.pdf> (Taskforce Report)(last visited Mar. 24, 2017).

<sup>18</sup> Section 468.609(2)(c)1., F.S.

In its final report, the taskforce recommended the development of the following initiatives:

- Creating an Alternative Internship Certification Program to the current standard qualifications;
- Adding residential inspector and plan examiner categories for all trades;
- Expanding the provisional and 120-day periods beyond newly hired or promoted staff;
- Authorizing interagency service agreement inspections and plan examination for standard certified building officials across jurisdictions with populations 50,000 or fewer;
- Having the FBCAIB streamline the application for certification process by providing for an electronic application process and combining the examination registration with the provisional application;
- Providing high school education guidance material for construction related careers;
- Supporting higher education code curriculum in engineering, architecture, and construction management degrees; and
- Comprehensively studying the compensation for building code compliance personnel.<sup>19</sup>

### **Construction Contracting**

The Construction Industry Licensing Board (CILB) within the DBPR is responsible for licensing and regulating the construction industry in this state.<sup>20</sup> The CILB is divided into two divisions with separate jurisdictions:

- Division I is comprised of the general contractor, building contractor, and residential contractor members of the CILB. Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.
- Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the CILB. Division II has jurisdiction over the regulation of roofing contractors, sheet metal contractors, class A, B, and C air-conditioning contractors, mechanical contractors, commercial pool/spa contractors, residential pool/spa contractors, swimming pool/spa servicing contractors, plumbing contractors, underground utility and excavation contractors, solar contractors, and pollutant storage systems contractors.

A specialty contractor is one whose scope of work and responsibility is limited to a particular phase of construction as detailed in an administrative rule adopted by the CILB. Jurisdiction is dependent on the scope of work and whether Division I or Division II has jurisdiction over such work in accordance with the applicable administrative rule.<sup>21</sup>

The CILB is authorized to:

- Reprimand or place licensees on probation;
- Revoke, suspend, or deny the issuance or renewal of a certificate or registration;

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<sup>19</sup> See the Taskforce Report, *supra* note 17 at page 14.

<sup>20</sup> See s. 489.107, F.S.

<sup>21</sup> For example, specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays. See Fla. Admin. Code R. 61G4-15.032 (2016).

- Require financial restitution to a consumer for financial harm directly related to a violation;
- Impose an administrative fine not to exceed \$10,000 per violation;
- Require continuing education; or
- Assess costs associated with investigation and prosecution.<sup>22</sup>

### Pool/Spa Contractors

Three types of pool/spa contractors may be licensed in Florida, including commercial pool/spa contractors, residential pool contractors, and swimming pool/spa servicing contractors.<sup>23</sup> Each type of contractor may engage in the scope of work specified s. 489.105(3), F.S., as follows:

- For commercial pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use.*<sup>24</sup>
- For residential pool/spa contractors, the scope of work involves, but is not limited to, the *construction, repair, and servicing of a residential swimming pool, or hot tub or spa, regardless of use.*<sup>25</sup>
- For swimming pool/spa servicing contractors means a contractor whose scope of work involves, but is not limited to, the *repair and servicing of a swimming pool, or hot tub or spa, whether public or private, or otherwise, regardless of use.*<sup>26</sup>

<sup>22</sup> See s. 489.129(1)(a) - (q), F.S., for the acts that may result in the imposition of discipline by the CILB.

<sup>23</sup> See ss. 489.105(3)(j), (k), and (l), F.S.

<sup>24</sup> The scope of work for commercial pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(j), F.S.

<sup>25</sup> The scope of work for residential pool/spa contractors also includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(k), F.S.

<sup>26</sup> The scope of work includes the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping, the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure *unless the usage involves construction, modification, substantial or*

A license is not required for the cleaning of a pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

### **Specialty Swimming Pool Contractors**

Specialty swimming pool contractors have limited scopes of work for the construction of pools, spas, hot tub, and decorative or interactive water displays, including:

- Swimming Pool Layout Specialty Contractors are limited to the layout, shaping, steel installation, and rough piping;
- Swimming Pool Structural Specialty Contractors are limited to the shaping and shooting of gunite, shotcrete, concrete, or similar product mix, and installation of fiberglass shells and vinyl liners);
- Swimming Pool Excavation Specialty Contractors are limited to excavation and earthmoving);
- Swimming Pool Trim Specialty Contractors are limited to the installation of tile and coping, and decorative or interactive water displays or areas that use recirculated water, including waterfalls and spray nozzles;
- Swimming Pool Decking Specialty Contractors are limited to the construction and installation of concrete flatwork, pavers and bricks, retaining walls, and footings;
- Swimming Pool Piping Specialty Contractors are limited to the installation of piping or the installation of circulating, filtering, disinfecting, controlling, or monitoring equipment and devices for pools, spas, hot tubs, and decorative or interactive water displays or areas; and
- Swimming Pool Finishes Specialty Contractors are limited to the coating or plastering of the interior surfaces.<sup>27</sup>

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

**Section 1** reorders and amends s. 468.603, F.S. to revise the terms “building code administrator” or “building official” to include any person under contract with a municipal or county government with specified building construction regulation responsibilities. One person employed or under contract by each municipal or county government as a certified building code administrator or building official may be authorized to perform any plan review or inspection.

The term “building code inspector” is revised to include any person under contract with a local government or state agency with specified building construction responsibilities.

The term “residential plans examiner” is created to mean a person who is qualified to determine whether plans submitted for purposes of obtaining building and other permits comply with the applicable residential building, plumbing, mechanical, electrical, gas, energy, accessibility, and other construction codes.

According to the Department of Business and Professional Regulation (DBPR), the bill will replace the existing voluntary category for one- and two-family dwelling plans examiners set

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*complete disassembly, or replacement of such equipment.* Water treatment that does not require such equipment does not require a license. See s. 489.105(3)(1), F.S.

<sup>27</sup> See Fla. Admin. Code R. 61G4-15.032 (2016).

forth in Rule 61G19-6.016(6), Florida Administrative Code, with a residential plans examiner license.<sup>28</sup> The DBPR anticipates that the majority of residential plans examiner licenses will be issued to individuals working for governments.<sup>29</sup>

**Section 2** amends s. 468.609(2), F.S., to provide an additional internship path for persons to become eligible to take the examination for certification as a building code inspector or plans examiner.

A person who completes an inspector or plans examiner internship certification program that includes all of the following requirements will be eligible to take the examination:

- Passing an International Code Council administered examination in the category sought before beginning a four-year internship while employed full time by a Florida municipality, county, or other governmental jurisdiction under the direct supervision of a standard certified, government employed, sponsoring building official. A related vocational or college degree attained or verifiable on-the-job experience may reduce the required internship period year-for-year, but it may not be reduced to less than one year.
- Passing the Florida Principles and Practice exam before completing the internship period.
- Passing a Florida Building Code Administrators and Inspectors Board (FBCAIB) approved 40-hour code training in the category sought before completing the internship period.
- Obtaining a favorable recommendation from the sponsoring building official after completing the internship period.

The bill also requires the Florida Building Code Administrators and Inspectors Board (FBCAIB) to provide for the issuance of a provisional certificate, valid for one year, to any building code inspector or plans examiner (newly employed or not) who meets the eligibility requirements in s. 468.609(2), F.S., as revised by the bill. Under current law, a person may perform the duties of a plan examiner or building code inspector for 120 days if the person submits a provisional certificate application and is under the direct supervision of a certified building code administrator who holds a standard certification and has found the person qualified for a provisional certificate. At present, the provisional certificate is available only for newly employed or promoted building code inspectors and plans examiners.

The FBCAIB must by rule:

- Establish a procedure to determine reciprocity for an International Code Council examination administered by another state. According to DBPR, the FBCAIB already recognizes ICC administered examinations regardless of where they were taken and passed.<sup>30</sup>
- Authorize candidates for the inspector or plans examiner internship program under s. 468.609(2)(c)7., F.S., to:
  - Perform duties during the first 120 days after initial application submittal to the FBCAIB.
  - Apply for a one-year provisional certificate before completing the internship period if the candidate has not passed the Florida Principles and Practice exam or 40-hour code training course.

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<sup>28</sup> See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 860, dated Mar. 9, 2017, (on file with Senate Committee on Regulated Industries) at page 5.

<sup>29</sup> *Id.*

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

- Apply for a standard certification at least 30 days but not more than 60 days before completing the internship period.
- Develop a form to authorize candidates for the inspector or plans examiner internship program to transfer approved partial internship periods completed in other jurisdictions.
- Develop an electronic application for standard certification of interns who successfully complete the inspector or plans examiner internship program.
- Establish minimum standards for, and a procedure to determine the eligibility of, internships for candidates to obtain certification under the inspector or plans examiner internship program.

After achieving initial standard certification, a person may seek additional certifications in other categories by completing additional noncurrent internship programs when passing an International Code Council examination, passing a FBCAIB approved 40-hour code training, and completing an additional one-year, full-time internship in the respective category sought. Any person holding a standard certification may seek additional certifications.

**Section 3** amends s. 468.617, F.S., to provide that a county or municipal government, school board, community college board, state university, or state agency is not prohibited from entering into a contract with any person or entity for the provision of building code administrator or building code official services. Under current law, such local governments were authorized to enter into a contract for building code inspection services only.

**Section 4** amends s. 468.8313, F.S., to provide that the DBPR may review and approve home inspectors exams by a nationally recognized entity. However, the examinations must meet the standards defined by rule and certified by the DBPR in order to be approved.

**Section 5** amends s. 489.113(3), F.S., to provide that pool/spa contractors are not required to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring on the load side of the dedicated existing electrical disconnecting work. Current law requires that unless a contractor holds a state certificate or registration in a trade category, all electrical work must be subcontracted (as must all mechanical, plumbing, roofing, sheet metal, swimming pool, and air-conditioning work). Pool/spa contractors, however would continue to be required to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker. The bill provides that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

**Section 6** amends s. 553.73, F.S., to require the Commission to use the 6<sup>th</sup> edition of the Florida Building Code, and subsequent editions, as the foundation for the Florida Building Code. The Commission is required to consider whether the Florida Building Code needs to be revised and to adopt code revisions by rule. When evaluating potential revisions to the Florida Building Code, the Florida Building Commission must review, rather than automatically adopt, the I-Codes every three years. The Commission also must review the International Energy Conservation Code; however, the Commission must maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction pursuant to s. 553.901, F.S.

Amendments and modifications, other than local amendments under s. 553.73(4), F.S., to the Florida Building Code will now remain effective when a new edition of the Florida Building Code is published.

The bill removes references to Florida-specific amendments because the entire building code will now be Florida-specific. The bill also makes other conforming and clarifying changes in terminology.

**Section 7** amends s. 553.76, F.S., to require the Commission to adopt the Florida Building Code, and amendments thereto, by a three-fourths vote of the members present at a meeting.

**Section 8** amends s. 553.791, F.S., to expand the definition of the term “private provider” to include a person licensed as a building code administrator under part XII of chapter 468. As a result, building code administrators are now authorized to contract with property owners and local building departments to conduct plans review and building code inspections.

**Sections 9 and 10** amend ss. 471.045 and 481.222, F.S., respectively, to conform cross-references.

**Section 10** provides an effective date of October 1, 2017.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, s. 6 of the State Constitution requires that a bill must pertain to a single subject that is briefly stated in the bill’s title. Courts have interpreted this to mean that all provisions of a bill must be “properly connected” to the subject of the bill in a “natural or logical” way.

The bill contains provisions dealing with the regulation of pool/spa contractors and the circumstances in which certain electrical work may or may not be subcontracted by such contractors. The relating to clause in CS/CS/SB 830 provides that the bill relates to the “Florida Building Code.” The single subject clause may be implicated as to whether the regulation of pool/spa contractors has a “natural and logical” connection.

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

None.

**B. Private Sector Impact:**

Under CS/CS/SB 860, builders and building code officials may benefit from the increased continuity of the Florida Building Code and increased transparency of the code adoption process.

**C. Government Sector Impact:**

The bill would require the Department of Business and Professional Regulation (DBPR) to make several modifications to its Versa: Regulation and Versa: Online systems in order to implement the internship programs for building code inspectors and plans examiners.<sup>31</sup> The bill may also require changes to OnBase routing. However, the DBPR states that these changes can be made using existing resources.

The Florida Building Commission will have to review each change to the I-Codes and the IECC individually rather than approving wholesale changes to the Florida Building Code.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 468.603, 468.609, 468.617, 468.8313, 553.73, 553.76, 553.791, 471.045, and 481.222 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Regulated Industries Committee on March 28, 2017:**

The committee substitute amends s. 489.113(3), F.S., to:

- Remove the requirement for pool/spa contractors to subcontract electrical work for the installation, replacement, disconnection, or reconnection of power wiring in certain circumstances;

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<sup>31</sup> *Id.*



- Require pool/spa contractors to subcontract all electrical work that requires the installation, removal, replacement, or upgrading of a circuit breaker; and
- Provide that the revised subcontracting requirement for pool/spa contractors does not apply to other contractor classifications or professions.

**CS by Community Affairs Committee on March 14, 2017:**

- Revises the terms “building code administrator,” “building official” and “building code inspector” to include persons under contract with the local government or state agency, in addition to employees of the local government or state agency. Current law states that these positions had to be employees of the government or agency.
- Removes a provision which authorized certain municipal or county employees to perform plan review or inspection as a certified building official under an interagency service agreement with a jurisdiction of population 50,000 or fewer.
- Requires the FBCAIB to establish minimum standards for, and a procedure to determine the eligibility of, internships for specified candidates.
- Clarifies that the DBPR may review and approve home inspector examinations by a nationally recognized entity only if those examinations meet the rule and certification standards of the DBPR.
- Changes the effective date of the bill from July 1, 2017, to October 1, 2017.
- Adds a provision that changes the process by which revisions are made to the Florida Building Code and requires the Commission to adopt the Florida Building Code by a three-fourth vote of the members present.

**B. Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2017	.	
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The Committee on Regulated Industries (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 316 and 317  
insert:

Section 5. Paragraph (h) is added to subsection (3) of  
section 489.113, Florida Statutes, to read:

489.113 Qualifications for practice; restrictions.—

(3) A contractor shall subcontract all electrical,  
mechanical, plumbing, roofing, sheet metal, swimming pool, and  
air-conditioning work, unless such contractor holds a state



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11 certificate or registration in the respective trade category,  
12 however:

13 (h) A pool/spa contractor, as defined in s. 489.105(3)(j),  
14 (k), or (l), is not required to subcontract electrical work for  
15 the installation, replacement, disconnection, or reconnection of  
16 power wiring on the load side of the dedicated existing  
17 electrical disconnecting means, but is required to subcontract  
18 all electrical work that requires installation, removal,  
19 replacement, or upgrading of a circuit breaker. This paragraph  
20 does not apply to other contractor classifications or  
21 professions.

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

24 And the title is amended as follows:

25 Delete line 31

26 and insert:

27 examinations; amending s. 489.113, F.S.; providing  
28 that specified pool/spa contractors are not required  
29 to subcontract certain work relating to power wiring;  
30 requiring such contractors to subcontract all work  
31 requiring the installation, removal, replacement, or  
32 upgrading of a circuit breaker; providing  
33 applicability; amending s. 553.73, F.S.; requiring the

By the Committee on Community Affairs; and Senators Brandes and Lee

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1                   A bill to be entitled  
2       An act relating to the Florida Building Code; amending  
3       s. 468.603, F.S.; revising and defining terms;  
4       amending s. 468.609, F.S.; creating an internship path  
5       to certification as an inspector or plans examiner;  
6       specifying requirements for the internship periods;  
7       requiring the board to authorize specified candidates  
8       for certification as building code inspectors or plans  
9       examiners to perform duties during a specified period  
10      after initial application, to apply for a 1-year  
11      provisional certificate under certain circumstances,  
12      and to apply for standard certification within a  
13      certain time before completing the internship period;  
14      deleting being newly hired or promoted as a condition  
15      for eligibility to qualify for a provisional  
16      certificate; requiring rulemaking; requiring the board  
17      to develop a form to transfer internship periods  
18      completed in other jurisdictions under certain  
19      circumstances; requiring the board to develop an  
20      electronic application for standard certification for  
21      certain persons; authorizing persons to seek  
22      additional certifications if they meet certain  
23      requirements; conforming cross-references; amending s.  
24      468.617, F.S.; specifying that a county or municipal  
25      government, school board, community college board,  
26      state university, or state agency is not prohibited  
27      from entering into a contract for the services of a  
28      building code administrator or building code official;  
29      amending s. 468.8313, F.S.; providing conditions for

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30 the department to review and approve certain  
31 examinations; amending s. 553.73, F.S.; requiring the  
32 Florida Building Commission to use the 6th and  
33 subsequent editions of the Florida Building Code as  
34 the foundation for the development of and updates to  
35 the code; requiring the commission to review, rather  
36 than update, the Florida Building Code every 3 years;  
37 deleting a provision that specifies how long  
38 amendments or modifications to the foundation remain  
39 effective; deleting provisions limiting the length of  
40 time that an amendment or modification is effective;  
41 deleting a provision requiring certain amendments or  
42 modifications to be carried forward into the next  
43 edition of the code, subject to certain conditions;  
44 deleting certain requirements for the resubmission of  
45 expired amendments; deleting a provision prohibiting a  
46 proposed amendment from being included in the  
47 foundation code if it has been addressed in the  
48 international code; conforming provisions to changes  
49 made by the act; amending s. 553.76, F.S.; requiring  
50 the commission to adopt the Florida Building Code, and  
51 amendments thereto, by a minimum percentage of votes;  
52 amending s. 553.791, F.S.; revising the definition of  
53 the term "private provider"; conforming cross-  
54 references; amending ss. 471.045 and 481.222, F.S.;  
55 conforming cross-references; providing an effective  
56 date.

57  
58 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 468.603, Florida Statutes, is reordered and amended to read:

468.603 Definitions.—As used in this part:

(2)~~(1)~~ "Building code administrator" or "building official" means any of those employees of municipal or county governments or any person under contract with building construction regulation responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. This term is synonymous with "building official" as used in ~~the administrative chapter of the Standard Building Code and~~ the South Florida Building Code. One person employed or under contract by each municipal or county government as a building code administrator or building official and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part.

(4)~~(2)~~ "Building code inspector" means any of those employees of local governments or state agencies or any person under contract with building construction regulation responsibilities who themselves conduct inspections of building construction, erection, repair, addition, or alteration projects that require permitting indicating compliance with building,

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88 plumbing, mechanical, electrical, gas, fire prevention, energy,  
89 accessibility, and other construction codes as required by state  
90 law or municipal or county ordinance.

91 (1)~~(3)~~ "Board" means the Florida Building Code  
92 Administrators and Inspectors Board.

93 (7)~~(4)~~ "Department" means the Department of Business and  
94 Professional Regulation.

95 (6)~~(5)~~ "Certificate" means a certificate of qualification  
96 issued by the department as provided in this part.

97 (5)~~(6)~~ "Categories of building code inspectors" include the  
98 following:

99 (a) "Building inspector" means a person who is qualified to  
100 inspect and determine that buildings and structures are  
101 constructed in accordance with the provisions of the governing  
102 building codes and state accessibility laws.

103 (b) "Coastal construction inspector" means a person who is  
104 qualified to inspect and determine that buildings and structures  
105 are constructed to resist near-hurricane and hurricane velocity  
106 winds in accordance with the provisions of the governing  
107 building code.

108 (c) "Commercial electrical inspector" means a person who is  
109 qualified to inspect and determine the electrical safety of  
110 commercial buildings and structures by inspecting for compliance  
111 with the provisions of the National Electrical Code.

112 (d) "Residential electrical inspector" means a person who  
113 is qualified to inspect and determine the electrical safety of  
114 one and two family dwellings and accessory structures by  
115 inspecting for compliance with the applicable provisions of the  
116 governing electrical code.



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117 (e) "Mechanical inspector" means a person who is qualified  
118 to inspect and determine that the mechanical installations and  
119 systems for buildings and structures are in compliance with the  
120 provisions of the governing mechanical code.

121 (f) "Plumbing inspector" means a person who is qualified to  
122 inspect and determine that the plumbing installations and  
123 systems for buildings and structures are in compliance with the  
124 provisions of the governing plumbing code.

125 (g) "One and two family dwelling inspector" means a person  
126 who is qualified to inspect and determine that one and two  
127 family dwellings and accessory structures are constructed in  
128 accordance with the provisions of the governing building,  
129 plumbing, mechanical, accessibility, and electrical codes.

130 (h) "Electrical inspector" means a person who is qualified  
131 to inspect and determine the electrical safety of commercial and  
132 residential buildings and accessory structures by inspecting for  
133 compliance with the provisions of the National Electrical Code.

134 (8)~~(7)~~ "Plans examiner" means a person who is qualified to  
135 determine that plans submitted for purposes of obtaining  
136 building and other permits comply with the applicable building,  
137 plumbing, mechanical, electrical, gas, fire prevention, energy,  
138 accessibility, and other applicable construction codes.

139 Categories of plans examiners include:

140 (a) Building plans examiner.

141 (b) Plumbing plans examiner.

142 (c) Mechanical plans examiner.

143 (d) Electrical plans examiner.

144 (3)~~(8)~~ "Building code enforcement official" or "enforcement  
145 official" means a licensed building code administrator, building

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146 code inspector, or plans examiner.

147 (9) "Residential plans examiner" means a person who is  
148 qualified to determine whether plans submitted for purposes of  
149 obtaining building and other permits comply with the applicable  
150 residential building, plumbing, mechanical, electrical, gas,  
151 energy, accessibility, and other construction codes.

152 Section 2. Paragraph (c) of subsection (2), paragraphs (a)  
153 and (d) of subsection (7), and subsection (10) of section  
154 468.609, Florida Statutes, are amended, and subsections (11) and  
155 (12) are added to that section, to read:

156 468.609 Administration of this part; standards for  
157 certification; additional categories of certification.—

158 (2) A person may take the examination for certification as  
159 a building code inspector or plans examiner pursuant to this  
160 part if the person:

161 (c) Meets eligibility requirements according to one of the  
162 following criteria:

163 1. Demonstrates 5 years' combined experience in the field  
164 of construction or a related field, building code inspection, or  
165 plans review corresponding to the certification category sought;

166 2. Demonstrates a combination of postsecondary education in  
167 the field of construction or a related field and experience  
168 which totals 4 years, with at least 1 year of such total being  
169 experience in construction, building code inspection, or plans  
170 review;

171 3. Demonstrates a combination of technical education in the  
172 field of construction or a related field and experience which  
173 totals 4 years, with at least 1 year of such total being  
174 experience in construction, building code inspection, or plans

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175 review;

176 4. Currently holds a standard certificate issued by the  
177 board or a firesafety inspector license issued pursuant to  
178 chapter 633, has a minimum of 3 years' verifiable full-time  
179 experience in inspection or plan review, and has satisfactorily  
180 completed a building code inspector or plans examiner training  
181 program that provides at least 100 hours but not more than 200  
182 hours of cross-training in the certification category sought.  
183 The board shall establish by rule criteria for the development  
184 and implementation of the training programs. The board shall  
185 accept all classroom training offered by an approved provider if  
186 the content substantially meets the intent of the classroom  
187 component of the training program;

188 5. Demonstrates a combination of the completion of an  
189 approved training program in the field of building code  
190 inspection or plan review and a minimum of 2 years' experience  
191 in the field of building code inspection, plan review, fire code  
192 inspections and fire plans review of new buildings as a  
193 firesafety inspector certified under s. 633.216, or  
194 construction. The approved training portion of this requirement  
195 shall include proof of satisfactory completion of a training  
196 program that provides at least 200 hours but not more than 300  
197 hours of cross-training that is approved by the board in the  
198 chosen category of building code inspection or plan review in  
199 the certification category sought with at least 20 hours but not  
200 more than 30 hours of instruction in state laws, rules, and  
201 ethics relating to professional standards of practice, duties,  
202 and responsibilities of a certificateholder. The board shall  
203 coordinate with the Building Officials Association of Florida,

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204 Inc., to establish by rule the development and implementation of  
205 the training program. However, the board shall accept all  
206 classroom training offered by an approved provider if the  
207 content substantially meets the intent of the classroom  
208 component of the training program; ~~or~~

209 6. Currently holds a standard certificate issued by the  
210 board or a firesafety inspector license issued pursuant to  
211 chapter 633 and:

212 a. Has at least 5 years' verifiable full-time experience as  
213 an inspector or plans examiner in a standard certification  
214 category currently held or has a minimum of 5 years' verifiable  
215 full-time experience as a firesafety inspector licensed pursuant  
216 to chapter 633.

217 b. Has satisfactorily completed a building code inspector  
218 or plans examiner classroom training course or program that  
219 provides at least 200 but not more than 300 hours in the  
220 certification category sought, except for one-family and two-  
221 family dwelling training programs, which must provide at least  
222 500 but not more than 800 hours of training as prescribed by the  
223 board. The board shall establish by rule criteria for the  
224 development and implementation of classroom training courses and  
225 programs in each certification category; or-

226 7. Completes an inspector or plans examiner internship  
227 certification program that includes all of the following:

228 a. Passing an International Code Council (ICC) administered  
229 examination in the category sought before beginning a 4-year  
230 internship while employed full time by a Florida municipality,  
231 county, or other governmental jurisdiction under the direct  
232 supervision of a standard certified, government employed,

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233 sponsoring building official. A related vocational or college  
234 degree attained or verifiable on-the-job experience may reduce  
235 the internship period year-for-year to no less than 1 year.

236 b. Passing the Florida Principles and Practice exam before  
237 completing the internship period.

238 c. Passing a board-approved 40-hour code training course in  
239 the category sought before completing the internship period.

240 d. Obtaining a favorable recommendation from the sponsoring  
241 building official upon completion of the internship period.

242 (7) (a) The board shall provide for the issuance of  
243 provisional certificates valid for 1 year, as specified by board  
244 rule, to any ~~newly employed or promoted~~ building code inspector  
245 or plans examiner who meets the eligibility requirements  
246 described in subsection (2) and any newly employed or promoted  
247 building code administrator who meets the eligibility  
248 requirements described in subsection (3). The provisional  
249 license may be renewed by the board for just cause; however, a  
250 provisional license is not valid for longer than 3 years.

251 (d) A ~~newly employed or hired~~ person may perform the duties  
252 of a plans examiner or building code inspector for 120 days if a  
253 provisional certificate application has been submitted if such  
254 person is under the direct supervision of a certified building  
255 code administrator who holds a standard certification and who  
256 has found such person qualified for a provisional certificate.  
257 Direct supervision and the determination of qualifications may  
258 also be provided by a building code administrator who holds a  
259 limited or provisional certificate in a county having a  
260 population of fewer than 75,000 and in a municipality located  
261 within such county.

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262 (10) The board may by rule create categories of  
263 certification in addition to those defined in s. 468.603(5) ~~s.~~  
264 ~~468.603(6)~~ and (8) ~~(7)~~. Such certification categories shall not  
265 be mandatory and shall not act to diminish the scope of any  
266 certificate created by statute.

267 (11) The board shall by rule:

268 (a) Establish a procedure to determine reciprocity for an  
269 ICC examination administered by another state.

270 (b) Authorize candidates under subparagraph (2)(c)7. to:

271 1. Perform duties during the first 120 days after initial  
272 application submittal to the board.

273 2. Apply for a 1-year provisional certificate before  
274 completing the internship period if the candidate has not passed  
275 the Florida Principles and Practice exam or 40-hour code  
276 training course.

277 3. Apply for standard certification at least 30 days but  
278 not more than 60 days before completing the internship period.

279 (c) Develop a form to authorize candidates under  
280 subparagraph (2)(c)7. to transfer approved partial internship  
281 periods completed in other jurisdictions.

282 (d) Develop an electronic application for standard  
283 certification of interns who successfully complete the program  
284 described in subparagraph (2)(c)7.

285 (e) Establish minimum standards for, and a procedure to  
286 determine the eligibility of, internships for candidates to  
287 obtain certification under subparagraph (2)(c)7.

288 (12) After achieving initial standard certification, a  
289 person may seek additional certifications in other categories by  
290 completing additional nonconcurrent internship programs when

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291 passing an ICC examination, passing a board-approved 40-hour  
292 code training course, and completing an additional 1-year, full-  
293 time internship in the respective category sought. Any person  
294 holding a standard certification may seek additional  
295 certifications.

296 Section 3. Subsection (3) of section 468.617, Florida  
297 Statutes, is amended to read:

298 468.617 Joint building code inspection department; other  
299 arrangements.—

300 (3) Nothing in this part shall prohibit any county or  
301 municipal government, school board, community college board,  
302 state university, or state agency from entering into any  
303 contract with any person or entity for the provision of building  
304 code administrator, building code official, or building code  
305 inspection services regulated under this part, and  
306 notwithstanding any other statutory provision, such county or  
307 municipal governments may enter into contracts.

308 Section 4. Subsection (4) of section 468.8313, Florida  
309 Statutes, is amended to read:

310 468.8313 Examinations.—

311 (4) The department may review and approve examinations by a  
312 nationally recognized entity that offers programs or sets  
313 standards that ensure competence as a home inspector, provided  
314 that only examinations meeting the standards of a national  
315 examination as defined by rule and certified by the department  
316 may be approved.

317 Section 5. Subsections (3), (7), and (8) of section 553.73,  
318 Florida Statutes, and paragraphs (a) and (b) of subsection (9)  
319 of that section, are amended to read:

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320 553.73 Florida Building Code.—

321 (3) The commission shall use the 6th edition, and  
322 subsequent editions, of the Florida Building Code as the  
323 ~~International Codes published by the International Code Council,~~  
324 ~~the National Electric Code (NFPA 70), or other nationally~~  
325 ~~adopted model codes and standards needed to develop the base~~  
326 ~~code in Florida to form the foundation for~~ the development of  
327 and updates to the Florida Building Code. The Florida Building  
328 commission may approve technical amendments to the code as  
329 provided in, ~~subject to~~ subsections (8) and (9), ~~after the~~  
330 ~~amendments have been~~ subject to all of the following conditions:

331 (a) The proposed amendment must have ~~has~~ been published on  
332 the commission's website for a minimum of 45 days and all the  
333 associated documentation must have ~~has~~ been made available to  
334 any interested party before ~~any~~ consideration by a technical  
335 advisory committee.†

336 (b) In order for a technical advisory committee to make a  
337 favorable recommendation to the commission, the proposal must  
338 receive a three-fourths vote of the members present at the  
339 ~~technical advisory committee meeting.~~ and At least half of the  
340 regular members must be present in order to conduct a meeting.†

341 (c) After the technical advisory committee has considered  
342 and recommended ~~consideration and a recommendation for~~ approval  
343 of any proposed amendment, the proposal must be published on the  
344 commission's website for at least 45 days before ~~any~~  
345 consideration by the commission.† ~~and~~

346 (d) A proposal may be modified by the commission based on  
347 public testimony and evidence from a public hearing held in  
348 accordance with chapter 120.



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The commission shall incorporate within ~~sections of~~ the Florida Building Code provisions that ~~which~~ address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(7) (a) The commission, by rule ~~adopted pursuant to ss. 120.536(1) and 120.54,~~ shall review ~~update~~ the Florida Building Code every 3 years to consider whether it needs to be revised. The commission shall adopt code revisions by rule. When evaluating potential revisions to ~~updating~~ the Florida Building Code, the commission shall review ~~select~~ the most current version of the International Building Code, the International Fuel Gas Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are adopted by the International Code Council, and the National Electrical Code, which is adopted by the National Fire Protection Association, ~~to form the foundation codes of the updated Florida Building Code, if the version has been adopted by the applicable model code entity.~~ The commission shall also review ~~select~~ the most current version of the International Energy Conservation Code (IECC) ~~as a foundation code;~~ however, ~~the IECC shall be modified by~~ the commission must ~~to~~ maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction adopted and amended pursuant to s. 553.901.

(b) Codes regarding noise contour lines shall be reviewed annually, and the most current federal guidelines shall be adopted.

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378           (c) The commission may adopt as a technical amendment to  
379 the Florida Building Code ~~modify~~ any portion of the ~~foundation~~  
380 codes identified in paragraph (a) only as needed to accommodate  
381 the specific needs of this state. Standards or criteria adopted  
382 from such ~~referenced by the~~ codes shall be incorporated by  
383 reference to the specific provisions of such codes which are  
384 adopted. If a referenced standard or criterion requires  
385 amplification or modification to be appropriate for use in this  
386 state, only the amplification or modification shall be set forth  
387 in the Florida Building Code. The commission may approve  
388 technical amendments to the updated Florida Building Code after  
389 the amendments have been subject to the conditions set forth in  
390 paragraphs (3) (a)-(d). Amendments that ~~to the foundation codes~~  
391 ~~which~~ are adopted in accordance with this subsection shall be  
392 clearly marked in printed versions of the Florida Building Code  
393 so that the fact that the provisions are ~~Florida-specific~~  
394 amendments ~~to the foundation codes~~ is readily apparent.

395           (d) The commission shall further consider the commission's  
396 own interpretations, declaratory statements, appellate  
397 decisions, and approved statewide and local technical amendments  
398 and shall incorporate such interpretations, statements,  
399 decisions, and amendments into the updated Florida Building Code  
400 only to the extent that they are needed to ~~modify the foundation~~  
401 ~~codes~~ to accommodate the specific needs of the state. A change  
402 made by an institute or standards organization to any standard  
403 or criterion that is adopted by reference in the Florida  
404 Building Code does not become effective statewide until it has  
405 been adopted by the commission. Furthermore, the edition of the  
406 Florida Building Code which is in effect on the date of

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407 application for any permit authorized by the code governs the  
408 permitted work for the life of the permit and any extension  
409 granted to the permit.

410 (e) A rule updating the Florida Building Code in accordance  
411 with this subsection shall take effect no sooner than 6 months  
412 after publication of the updated code. Any amendment to the  
413 Florida Building Code which is adopted upon a finding by the  
414 commission that the amendment is necessary to protect the public  
415 from immediate threat of harm takes effect immediately.

416 (f) Provisions of the Florida Building Code ~~foundation~~  
417 ~~codes~~, including those contained in referenced standards and  
418 criteria, relating to wind resistance or the prevention of water  
419 intrusion may not be modified to diminish those construction  
420 requirements; however, the commission may, subject to conditions  
421 in this subsection, modify the provisions to enhance those  
422 construction requirements.

423 ~~(g) Amendments or modifications to the foundation code~~  
424 ~~pursuant to this subsection shall remain effective only until~~  
425 ~~the effective date of a new edition of the Florida Building Code~~  
426 ~~every third year. Amendments or modifications related to state~~  
427 ~~agency regulations which are adopted and integrated into an~~  
428 ~~edition of the Florida Building Code shall be carried forward~~  
429 ~~into the next edition of the code, subject to modification as~~  
430 ~~provided in this part. Amendments or modifications related to~~  
431 ~~the wind-resistance design of buildings and structures within~~  
432 ~~the high-velocity hurricane zone of Miami-Dade and Broward~~  
433 ~~Counties which are adopted to an edition of the Florida Building~~  
434 ~~Code do not expire and shall be carried forward into the next~~  
435 ~~edition of the code, subject to review or modification as~~

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436 ~~provided in this part. If amendments that expire pursuant to~~  
437 ~~this paragraph are resubmitted through the Florida Building~~  
438 ~~commission code adoption process, the amendments must~~  
439 ~~specifically address whether:~~

440 ~~1. The provisions contained in the proposed amendment are~~  
441 ~~addressed in the applicable international code.~~

442 ~~2. The amendment demonstrates by evidence or data that the~~  
443 ~~geographical jurisdiction of Florida exhibits a need to~~  
444 ~~strengthen the foundation code beyond the needs or regional~~  
445 ~~variations addressed by the foundation code, and why the~~  
446 ~~proposed amendment applies to this state.~~

447 ~~3. The proposed amendment was submitted or attempted to be~~  
448 ~~included in the foundation codes to avoid resubmission to the~~  
449 ~~Florida Building Code amendment process.~~

450

451 ~~If the proposed amendment has been addressed in the~~  
452 ~~international code in a substantially equivalent manner, the~~  
453 ~~Florida Building commission may not include the proposed~~  
454 ~~amendment in the foundation Code.~~

455 ~~(8) Notwithstanding the provisions of subsection (3) or~~  
456 ~~subsection (7), the commission may address issues identified in~~  
457 ~~this subsection by amending the code pursuant only to the rule~~  
458 ~~adoption procedures contained in chapter 120. Provisions of The~~  
459 ~~Florida Building Code, including provisions ~~those~~ contained in~~  
460 ~~referenced standards and criteria which relate, relating to wind~~  
461 ~~resistance or the prevention of water intrusion, may not be~~  
462 ~~amended pursuant to this subsection to diminish those standards~~  
463 ~~construction requirements; however, the commission may, subject~~  
464 ~~to conditions in this subsection, amend the Florida Building~~

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465 ~~Code~~ the provisions to enhance such standards ~~those construction~~  
466 ~~requirements~~. Following the approval of any amendments to the  
467 Florida Building Code by the commission and publication of the  
468 amendments on the commission's website, authorities having  
469 jurisdiction to enforce the Florida Building Code may enforce  
470 the amendments. The commission may approve amendments that are  
471 needed to address:

- 472 (a) Conflicts within the updated code;
- 473 (b) Conflicts between the updated code and the Florida Fire  
474 Prevention Code adopted pursuant to chapter 633;
- 475 (c) Unintended results from the integration of previously  
476 adopted ~~Florida-specific~~ amendments with the model code;
- 477 (d) Equivalency of standards;
- 478 (e) Changes to or inconsistencies with federal or state  
479 law; or
- 480 (f) Adoption of an updated edition of the National  
481 Electrical Code if the commission finds that delay of  
482 implementing the updated edition causes undue hardship to  
483 stakeholders or otherwise threatens the public health, safety,  
484 and welfare.

485 (9) (a) The commission may approve technical amendments to  
486 the Florida Building Code once each year for statewide or  
487 regional application upon a finding that the amendment:

- 488 1. Is needed in order to accommodate the specific needs of  
489 this state.
- 490 2. Has a reasonable and substantial connection with the  
491 health, safety, and welfare of the general public.
- 492 3. Strengthens or improves the Florida Building Code, or in  
493 the case of innovation or new technology, will provide

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494 equivalent or better products or methods or systems of  
495 construction.

496 4. Does not discriminate against materials, products,  
497 methods, or systems of construction of demonstrated  
498 capabilities.

499 5. Does not degrade the effectiveness of the Florida  
500 Building Code.

501

502 The Florida Building Commission may approve technical amendments  
503 to the code once each year to incorporate into the Florida  
504 Building Code its own interpretations of the code which are  
505 embodied in its opinions, final orders, declaratory statements,  
506 and interpretations of hearing officer panels under s.

507 553.775(3)(c), but only to the extent that the incorporation of  
508 interpretations is needed to modify the code ~~foundation codes~~ to  
509 accommodate the specific needs of this state. Amendments  
510 approved under this paragraph shall be adopted by rule after the  
511 amendments have been subjected to subsection (3).

512 (b) A proposed amendment must include a fiscal impact  
513 statement that documents the costs and benefits of the proposed  
514 amendment. Criteria for the fiscal impact statement shall be  
515 established by rule by the commission and shall include the  
516 impact to local government relative to enforcement, the impact  
517 to property and building owners, and the impact to industry,  
518 relative to the cost of compliance. The amendment must  
519 demonstrate by evidence or data that the state's geographical  
520 jurisdiction exhibits a need to strengthen the ~~foundation~~ code  
521 beyond the needs or regional variations addressed by the  
522 ~~foundation~~ code and why the proposed amendment applies to this

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523 state.

524 Section 6. Subsection (2) of section 553.76, Florida  
525 Statutes, is amended to read:

526 553.76 General powers of the commission.—The commission is  
527 authorized to:

528 (2) Issue memoranda of procedure for its internal  
529 management and control. The commission may adopt rules related  
530 to its consensus-based decisionmaking process, including, but  
531 not limited to, super majority voting requirements ~~for~~  
532 ~~commission actions relating to the adoption of the Florida~~  
533 ~~Building Code or amendments to the code.~~ However, the commission  
534 must adopt the Florida Building Code, and amendments thereto, by  
535 at least a three-fourths vote of the members present at a  
536 meeting.

537 Section 7. Paragraphs (d) and (i) of subsection (1) of  
538 section 553.791, Florida Statutes, are amended to read:

539 553.791 Alternative plans review and inspection.—

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

541 (d) "Building code inspection services" means those  
542 services described in s. 468.603(5) ~~s. 468.603(6)~~ and (8) ~~(7)~~  
543 involving the review of building plans to determine compliance  
544 with applicable codes and those inspections required by law of  
545 each phase of construction for which permitting by a local  
546 enforcement agency is required to determine compliance with  
547 applicable codes.

548 (i) "Private provider" means a person licensed as a  
549 building code administrator under part XII of chapter 468, as an  
550 engineer under chapter 471, or as an architect under chapter  
551 481. For purposes of performing inspections under this section

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552 for additions and alterations that are limited to 1,000 square  
553 feet or less to residential buildings, the term "private  
554 provider" also includes a person who holds a standard  
555 certificate under part XII of chapter 468.

556 Section 8. Section 471.045, Florida Statutes, is amended to  
557 read:

558 471.045 Professional engineers performing building code  
559 inspector duties.—Notwithstanding any other provision of law, a  
560 person who is currently licensed under this chapter to practice  
561 as a professional engineer may provide building code inspection  
562 services described in s. 468.603(5) ~~s. 468.603(6)~~ and (8) ~~(7)~~ to  
563 a local government or state agency upon its request, without  
564 being certified by the Florida Building Code Administrators and  
565 Inspectors Board under part XII of chapter 468. When performing  
566 these building code inspection services, the professional  
567 engineer is subject to the disciplinary guidelines of this  
568 chapter and s. 468.621(1)(c)-(h). Any complaint processing,  
569 investigation, and discipline that arise out of a professional  
570 engineer's performing building code inspection services shall be  
571 conducted by the Board of Professional Engineers rather than the  
572 Florida Building Code Administrators and Inspectors Board. A  
573 professional engineer may not perform plans review as an  
574 employee of a local government upon any job that the  
575 professional engineer or the professional engineer's company  
576 designed.

577 Section 9. Section 481.222, Florida Statutes, is amended to  
578 read:

579 481.222 Architects performing building code inspection  
580 services.—Notwithstanding any other provision of law, a person



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581 who is currently licensed to practice as an architect under this  
582 part may provide building code inspection services described in  
583 s. 468.603(5) ~~s. 468.603(6)~~ and (8) ~~(7)~~ to a local government or  
584 state agency upon its request, without being certified by the  
585 Florida Building Code Administrators and Inspectors Board under  
586 part XII of chapter 468. With respect to the performance of such  
587 building code inspection services, the architect is subject to  
588 the disciplinary guidelines of this part and s. 468.621(1)(c)-  
589 (h). Any complaint processing, investigation, and discipline  
590 that arise out of an architect's performance of building code  
591 inspection services shall be conducted by the Board of  
592 Architecture and Interior Design rather than the Florida  
593 Building Code Administrators and Inspectors Board. An architect  
594 may not perform plans review as an employee of a local  
595 government upon any job that the architect or the architect's  
596 company designed.

597 Section 10. This act shall take effect October 1, 2017.

**Bill Adversely Impacting Florida's Building Code:  
CS / SB 860 by Community Affairs / Senator Brandes**

The following organizations are opposed to the above bill which will weaken Florida's building code, resulting in higher insurance rates. **This bill is on the Senate's Regulated Industries Committee agenda for Tuesday, March 28 at 11:00 a.m.** The new process creates a system that blocks the regular incorporation of updated consensus-based, industry building codes and standards which will leave Florida behind on building and weather science and safety innovations. Current law requires the Building Commission to revise the Code every three years to adopt the most recent versions of the International Code Council I-Code (I-Code) incorporating the latest safety innovations. Under the bills' permissive adoption process, the Commission may every three years adopt, by a three-fourths vote, updates to the current Code as it deems appropriate after an evaluation of the latest version of the I-Codes. We concur with Federal Alliance for Safe Homes, Florida Building Code Officials, and Florida Floodplain Managers to maintain the current mandatory update process which has resulted in a code viewed as the strongest in the country.

**American Insurance Association**

- Ron Jackson  
[rjackson@aiadc.org](mailto:rjackson@aiadc.org)

**Florida Association of Insurance Agents**

- Kyle Ulrich  
[kulrich@faia.com](mailto:kulrich@faia.com)

**Florida Insurance Council**

- Cecil Pearce  
[cpearce@flains.org](mailto:cpearce@flains.org)

**Florida Property & Casualty Insurance Association**

- William Stander  
[william@williamstander.com](mailto:william@williamstander.com)

**National Association of Mutual Insurance Companies**

- Liz Reynolds  
[lreynolds@namic.org](mailto:lreynolds@namic.org)

**Personal Insurance Federation of Florida**

- Michael Carlson  
[michael.carlson@piff.net](mailto:michael.carlson@piff.net)

**Property Casualty Insurers Association of America**

- Logan McFaddin  
[logan.mcfaddin@pciaa.net](mailto:logan.mcfaddin@pciaa.net)

**Craig Fugate, FEMA Administrator (2008 – 2016), Former Florida DEM:**

“A unified building code based on the latest science and engineering practices reduces the total cost of home ownership and increases the insurability of Florida's new construction. The Florida Building Code has proven that since its inception over 15 years ago. Florida Senate Bills 860 and 7000 put that at risk.”

**John Zarrella, Former CNN Miami Bureau Chief:**

“In the wake of Andrew, the sad truth was revealed. Building codes had failed us. I stood in the midst of endless rubble that had been someone's home. The walls were gone. The roof was gone. Mile after mile it was all the same so much so that people couldn't even find the streets where they had lived.

When Charley and then Wilma hit years later, it was unquestionable how the code changes had saved property and lives. The destruction Andrew brought was not repeated. Andrew was a hard lesson. But we learned from it, we fixed much of what was wrong. And that is what good government practices are supposed to accomplish.”

**Ocala is the first city in Florida to achieve a FEMA Class 3 Rating.**

**Ocala City Engineer's Office:**

“Since the City of Ocala is a Class 3 Community, properties in Special Flood Hazard Areas receive a 35% discount (estimated \$405 average) on their Flood Insurance. Also, properties in Non-Special Flood Hazard Areas receive a 10% discount on their Flood Insurance”.

## Summary Document: The Case for Preserving Florida's Building Code System<sup>i</sup>

- Florida Senate Bill 860 proposes to replace the I-Codes with the Florida Building Code (FBC) 6<sup>th</sup> edition (and subsequent editions) as the foundation code; and replace the mandatory three-year update of the FBC with a permissive review process.
- Florida is a highly-populated state, with an increase in population by an estimated 1,000 people a day according to the U.S. Census Bureau. Florida also has more than 1,300 miles of coastline, and is the most likely state in the U.S. to be hit by a hurricane.
- In 1992, Hurricane Andrew caused widespread devastation to South Florida, with an estimated \$26 billion in damages, destroying approximately 49,000 homes, and damaging an estimated 108,000 additional homes. Storm damage has been attributed to the “confusing system of multiple codes and administrative processes” that was in place.
- Andrew disrupted the private insurance market for years afterwards.
- In 2002, the first edition of the FBC went into effect and replaced all local codes. Since going into effect, multiple studies have documented the economic benefit of the FBC. A recent Wharton Study found that the FBC results in 4.8 dollars in losses saved for every 1 dollar spent on new construction.
- The main concerns with SB 860 are:
  - The removal of safety innovations incorporated within the FBC via modern incorporation of the I-Codes as the foundation code.
  - The costs and difficulty of replicating a code development process equivalent in quality to the I-Code development process, noting the approximately \$9 million per year required to develop and maintain the I-Codes by the ICC.
  - The potential for SB 860 to negatively impact financial incentives and federal funding, including recent FEMA policies requiring the “integration and use of nationally recognized voluntary consensus-based building codes and standards.”
- SB 860 represents a return to a pre-Andrew era, with an unworkable framework for developing building codes, neglecting the many practical considerations, including resources, for a building code system to succeed. As Andrew proved almost 25 years ago, a dysfunctional building code system is literally a recipe for disaster.

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<sup>i</sup> This paper is a summary of *The Case for Preserving Florida's Building Code System*. Refer to this document for citations and resources.

## Federal Emergency Management Agency (FEMA) Policies Implicated by SB 860

Various federal policies incentivize strong building codes, with ramifications for the availability of FEMA funds post-disaster. The following policies are implicated by Senate Bill 860:

- FEMA Disaster Risk Reduction Minimum Codes and Standards, FEMA Policy 204-078-2 – “FEMA will encourage and, to the extent permitted by law, require the integration and use of nationally recognized voluntary consensus-based building codes and standards consistently across FEMA programs.”<sup>i</sup>
- FEMA Public Assistance Required Minimum Standards, FEMA Recovery Policy FP-104-009-4 – “FEMA’s Public Assistance program will generally require the integration and use of the hazard-resistant provisions of the International Code Council’s (ICC) International Building Code (IBC), the International Existing Building Code (IEBC), and/or the International Residential Code (IRC) as a minimum design standard for all eligible building restoration projects where the design standard is triggered.”<sup>ii</sup>
- On January 20, 2016, FEMA published an Advance Notice of Proposed Rulemaking seeking comment on a Public Assistance “disaster deductible” concept, which would require a predetermined deductible amount before FEMA grants assistance, including potential credits towards the deductible for activities like prior adoption of enhanced building codes.<sup>iii</sup>

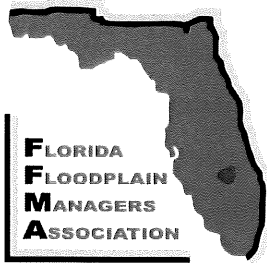
As the above bullets describe, amending the FBC development process will have far-reaching financial impacts, including the availability and amount of disaster relief funds.

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<sup>i</sup> FEMA. Disaster Risk Reduction Minimum Codes and Standards. FEMA Policy 204-078-2. September 6, 2016. <http://www.iccsafe.org/wp-content/uploads/FP-204-078-2.pdf>.

<sup>ii</sup> FEMA. *Public Assistance Required Minimum Standards Policy*. September 30, 2016. <https://www.fema.gov/media-library/assets/documents/124326>.

<sup>iii</sup> Proposed Rule. *Establishing a Deductible for FEMA’s Public Assistance Program*. 81 FR 3082 (January 20, 2016). <https://www.federalregister.gov/documents/2016/01/20/2016-00997/establishing-a-deductible-for-femas-public-assistance-program>.



# FLORIDA FLOODPLAIN MANAGERS ASSOCIATION

FLORIDA CHAPTER OF THE ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

P.O. Box 21243 | Tampa, FL 33622-1243 | 813-765-FFMA (3362) | [www.FLfloods.org](http://www.FLfloods.org)

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*"Providing leadership in floodplain management to reduce risk and loss caused by flood"*

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Donald Beaton, Jr., CFM

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Lisa Foster, CFM

Josh Overmyer, CFM

2/28/17

Re: Senate Bill 7000 and House Bill 901

**NOTE: SB 860 was amended to include the provisions of SB 7000**

Dear Honorable Members of the Committee on Community Affairs,

The Florida Floodplain Managers Association (FFMA) is the Florida Chapter of the Association of State Floodplain Managers (ASFPM). We are pleased to provide comments on Senate Bill 7000 that was jointly introduced by the Committee on Community Affairs and Senator Keith Perry and House Bill 901 which was filed as a companion bill by Representative Stan McClain. Like our parent organization ASFPM, FFMA is a professional non-profit organization and its members represent many of the 467 National Flood Insurance Program (NFIP) communities in the State of Florida. The communities are home to more than 1,783,000 flood insurance policyholders, contributing over \$957,664,000 in premiums paid into the NFIP each year.

FFMA is one of the most active chapters of ASFPM in terms of education and member involvement. We have over 700 members representing a strong mix of public and private organizations along with local and state officials. It is the aim of FFMA to provide comments on the proposed bill from a floodplain management perspective giving local and expert insight to the measures that have been suggested.

Senate Bill 7000 (SB7000) and House Bill 901 (HB901) were introduced with the intent of limiting nationally-approved changes to the base building code used in Florida. FFMA offers further details on two significant implications of the legislation:

- Potential to increase flood insurance premium payments by more than \$60 million for Florida policy holders in 95 communities (currently offset by the National Flood Insurance Program's Community Ratings System)
- Potential loss or reduction in post-disaster funding through the Federal Emergency Management Agency's (FEMA's) Public Assistance program

The current Florida Building Code is based on codes developed by the International Code Council (referred to as I-Codes) and amended as needed by the Florida Building Commission to more closely adapt the codes to the specific nature of hazards encountered in Florida.



# FLORIDA FLOODPLAIN MANAGERS ASSOCIATION

FLORIDA CHAPTER OF THE ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.

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## Impacts to the Building Code Effectiveness Grading Scale (BCEGS)

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The most current version of the Florida Building Code is the 5<sup>th</sup> Edition which is based on the 2012 I-Codes and includes the minimum requirements of the National Flood Insurance Program (NFIP) within the code. The next version (6<sup>th</sup> Edition) is due to become effective on December 31, 2017 and will be based on the 2015 I-Codes. The current process results in a Florida Building Code that is typically two to five years behind the corresponding I-Code.

Under the proposed language, the Florida Building Commission will use the 6<sup>th</sup> Edition of the Florida Building Code for all future updates and amendments. This will mean that, over time, the Florida Building Code will move further away from the most recent I-Code edition.

FFMA's comments specifically focus on the bills unintended financial consequences to taxpayers based on how the bill effects the following programs: National Flood Insurance Program (NFIP), Community Rating System (CRS), the Building Code Effectiveness Grading Schedule (BCEGS), and FEMA Public Assistance funding.

Please note that NFIP floodplain management requirements, NFIP flood insurance premiums, FEMA flood hazard mitigation and the enforcement of up to date building codes are inextricably intertwined. **The I-Codes and codes such as the Florida Building Code have a direct correlation to the cost of flood insurance for property owners in Florida.**

This correlation is primarily based on the Building Code Effectiveness Grading Schedule (or BCEGS) which is a mechanism that measures and documents the effectiveness of a jurisdiction's enforcement of the building code across the Country. Jurisdictions are assigned a score separately for enforcement of residential and commercial buildings ranging from 1 to 10 with 1 being the highest. In Florida, the majority of community's scores range between a BCEGS Class 2 and a Class 6.

Jurisdictions in Florida that participate in BCEGS receive maximum score for the enforcement of building codes that are adopted within 5 years of the most recent I-Codes. This score not only contributes directly to the overall score for a jurisdiction, it is also used to make an adjustment to all other points accumulated. For example, a jurisdiction implementing codes within five years of publication (as Florida currently does) will score maximum points for code adoption and therefore have a ratio of 1 (8 of 8 possible points) and no adjustment to other scores. A jurisdiction adopting codes within six years of the publication date will only earn 6.88 points in the code adoption section out of a maximum eight points and all other points will be adjusted by a factor of 6.88/8 or 0.86 so the jurisdiction will receive credit for 86% of the points earned throughout the evaluation process.

**The further away the Florida Building Code moves from the original publication date of the I-Code, the lower the score and therefore, the lower the adjustment factor.** If the code adopted is more than six years old but less than 10, a situation Florida could face in only four years under this proposed bill, the score for code adoption would be 2.21 points out of a maximum of 8 points. This would equate to an adjustment factor of



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2.21/8 or 0.277 so the jurisdiction would receive credit for only 27.7% of the points earned through the evaluation process.

**This would result in a dramatic decrease in BCEGS classifications for jurisdictions participating in BCEGS which would result in an increase for regular building insurance policies but will also have a direct, significant, increase in the cost of flood insurance premiums in Florida.**

## Impacts to the NFIP Community Rating System (CRS) and Flood Insurance Premiums

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Florida has 467 NFIP communities, of which 230 participate in the NFIP's Community Rating System (CRS). The CRS is a program that encourages communities to minimize flood losses through enforcement of higher regulatory standards and public outreach along with many other criteria in exchange for discounts on the cost of NFIP flood insurance. The more flood resiliency a community achieves, the higher the CRS rating. Unlike BCEGS, CRS has a direct quantifiable impact on the flood insurance premiums paid by citizens. Classes range from a Class 10, which earns no discount, to a Class 1 which earns a 45% discount on NFIP flood insurance premiums.

In Florida, 230 communities have earned a Class 9 or higher achieving between 5% and 35% discount in flood insurance premiums and cumulatively saving Florida residents and business owners \$195,328,086 in flood insurance premiums **each year**. Of those, 95 communities are a Class 6 or higher and together save Florida citizens over \$168 million each year.

Under the CRS program, to reach a Class 6 or higher, a community **MUST** have a minimum BCEGS rating of Class 5 for residential and Class 5 for commercial structures. By changing the Florida Building Code adoption process to move it further away from the most recent adopted I-Codes, communities currently meeting this standard will not meet this pre-requisite. This will mean that **all Class 6 or higher CRS communities will retrograde to a Class 7.**

**The adverse fiscal impact of this change to Florida citizens would be an increase of over \$60.5 million paid every year for NFIP flood insurance premiums.** Seventeen communities in Florida would see an increase in premiums of over \$1 million per community. This increase per community is illustrated in Attachment 1.

In addition, the Community Rating System provides credit for the adoption of building codes based on the I-Codes which contain flood building standards established by the NFIP. CRS specifies that the State building code must not be based on an I-Code older than six years. Under the bills, the further away from the most recent I-Code the FBC falls, the lower the points awarded again adversely impacting a communities' CRS rating.



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## Impacts to FEMA Public Assistance Funding

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Another significant impact of this proposed legislation concerns the eligibility of projects to receive FEMA Public Assistance Funding following Presidentially-declared disasters. FEMA Policy FP-104-009-04, "Public Assistance Required Minimum Standards" (Attachment 2), sets the minimum standards required for Public Assistance projects and requires that projects funded under this program must utilize Building Codes based on the I-Codes.

The minimum standards state:

"...generally require the integration and use of the hazard-resistant provisions of the International Code Council's (ICC) International Building Code (IBC), the International Existing Building Code (IEBC), and/or the International Residential Code (IRC) as a minimum design standard for all eligible building restoration projects where the design standard is triggered".

A consequence of failing to incorporate these minimum standards defined in FEMA Policy FP-104-009-04 may be denial or de-obligation of FEMA funding for facilities that were built or repaired using Public Assistance funds. If Florida's Building Codes do not reflect the current I-Codes, jurisdictions, at a minimum, will be tasked with regulating Public Assistance funded projects with codes different from all other projects that are regulated daily and may result in the denial or de-obligation of Public Assistance funded projects. In a State as vulnerable as Florida is to disasters, loss of Public Assistance funding is of significant concern.

## About the Florida Floodplain Managers Association and SB7000/HB901

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FFMA's mission is providing leadership in floodplain management to reduce risk and loss caused by flood. We have been actively involved in floodplain management in Florida for many years and are proponents of strong, multi-hazard resistant codes. Amending the current Florida Building Code adoption process is a very complex process and requires a detailed understanding of the far-reaching interdependencies. Our legislators depend on comments and input from experts to help craft language that meets the goals of the legislation but without unintended consequences. Therefore, we respectfully provide the preceding information, statistics, and analysis to help our citizens and lawmakers understand the full implications of Senate Bill 7000 as it pertains to floodplain management, flood insurance, and FEMA funding in Florida.





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In summary, FFMA thanks you for the opportunity to comment on the proposed rule. Feel free to contact us if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Zambito". The signature is fluid and cursive, with the first and last names being the most prominent.

Chris Zambito, CFM  
Chair, FFMA Board of Directors  
[chair@FLfloods.org](mailto:chair@FLfloods.org)

cc: FFMA Board  
ASFPM



## The Case for Preserving Florida's Building Code System

*The nonprofit Federal Alliance for Safe Homes (FLASH) is a coalition of public, private, and nonprofit organizations committed to disaster safety and resilience. Since 1998, FLASH and partners have advanced initiatives and policies that address natural hazards and the built environment.*

February 23, 2017

## Florida Senate Bill 7000 and its Companion House Bill 901 (2017)

Florida Senate Bill 7000 and House Bill 901 would critically weaken the built environment in Florida in ways that are not immediately obvious. On its face, it appears to streamline the process of updating the Florida Building Code (FBC), but in effect, it creates a system that blocks the regular incorporation of updated consensus-based, industry building codes and standards and, in turn, leaves Florida behind on building and weather science and safety innovations. After Hurricane Andrew, Florida learned the lessons of an inadequate building code system. This bill will leave Florida, a uniquely populous and catastrophe-exposed state, back in a pre-Andrew system and vulnerable to the next tropical storm or hurricane to again prove the value of strong minimum construction standards.

### I. Senate Bill 7000 and House Bill 901

As drafted, SB 7000 and HB 901 proposes several significant changes to the FBC system. Two highly concerning provisions include: (1) replacing the I-Codes with the 6<sup>th</sup> edition (and subsequent editions) of the FBC as the foundation code for the FBC; and (2) replacing the current mandatory three-year update of the FBC with a permissive review process.

These two changes may seem limited to procedural matters, but in reality, they could drastically diminish the substance and character of the FBC, widely considered currently to be one of the, if not the, strongest building codes in the country. The history and impact of the FBC are examined here to contextualize the potential ramifications of SB 7000 and HB 901.

### II. History and Benefits of FBC

Florida has more than 1,300 miles of coastline, thousands of lakes, and hundreds of miles of rivers.<sup>i</sup> Florida is the most likely state in the United States to be hit by a hurricane<sup>ii</sup>, the storm type with the greatest potential for devastating a large geographical area.<sup>iii</sup> One study provides a 46 percent chance that Florida is hit by at least one hurricane per year.<sup>iv</sup> Additionally, Florida is a highly populated state, currently the third most-populous state with an estimated 19.9 million residents.<sup>v</sup>

“... Florida is the most likely state in the United States to be hit by a hurricane...”

## A. History of the FBC

Florida is a state with a long history of devastating hurricanes, tropical storms, and flooding, as well as other perils like hail, wildfires, and tornadoes. The history of the FBC provisions illustrates the necessity to maintain strong minimum construction standards to protect the built environment.

In the 1950s, several devastating hurricanes<sup>vi</sup> made it apparent that South Florida needed strong building code provisions.<sup>vii</sup> Accordingly, in the aftermath, a panel of experts including architects, engineers, builders, and industry representatives assembled to address this issue and worked with the American Society of Civil Engineers (ASCE) and other research groups to devise wind-loading design.<sup>viii</sup> On December 31, 1957, Miami-Dade County was the first to adopt the South Florida Building Code, with Broward County following suit soon thereafter, adopting a slightly modified version.<sup>ix</sup>

In the 1970s, the State of Florida first regulated building codes at the statewide level.<sup>x</sup> In 1974, Florida law established the state minimum building code requiring all local governments to adopt and enforce a building code. This set forth four separate model codes that local governments could choose from to adopt; therefore, the state's role was to adopt all or relevant parts of new editions of the four model codes, of which local governments could then amend and enforce the local codes as they deemed appropriate.<sup>xi</sup> Most local governments amended the model code they selected.<sup>xii</sup>

Also beginning in the 1970s was a construction boom that generally lasted until the early 1990s.<sup>xiii</sup> Hundreds of thousands of homes in South Florida representing approximately 70 percent of all existing homes in Broward and Palm Beach were built between 1970 and 1992.<sup>xiv</sup>

In 1976 the South Florida Building Code was adopted as a mandatory standard for all municipalities in Broward County.<sup>xv</sup> In 1986, Florida law established the "Coastal Building Zone", the first engineering-based hurricane wind and storm surge standards.<sup>xvi</sup>

On August 24, 1992, Hurricane Andrew, the third most intense U.S. land-falling hurricane in the twentieth century, hit southern Dade County as a Category 5 hurricane.<sup>xvii</sup> For the 27 years

prior, South Florida did not experience a severe hurricane.<sup>xviii</sup> While the storm produced high winds and storm surge, the storm surge and wave action effects were confined to a small section of the coastal floodplain.<sup>xix</sup> Accordingly, Andrew's flood damage was minimal; however, wind damage from its significant wind speeds was widespread.<sup>xx</sup> Damages from Andrew were estimated at \$26 billion, directly causing 26 deaths in the U.S. and indirectly causing an additional 39 deaths.<sup>xxi</sup> Andrew destroyed approximately 49,000 homes and damaged an estimated 108,000 additional homes.<sup>xxii</sup> The destruction from Hurricane Andrew created a property insurer void from failed private insurers and necessitated the expenditure of billions of federal dollars.<sup>xxiii</sup>

One factor, identified by Fronstin and Holtman (1994), for the widespread damage from Andrew is the erosion of the building code in the years before the storm (one assertion that it began in the 1970s).<sup>xxiv</sup> They observed that for homes built before Hurricane Andrew, newer homes had proportionately more damage than older homes—that subdivisions built in the late 1960s had the least amount of damage, but homes built after the 1970s and very new subdivisions had a large amount of damage.<sup>xxv</sup> Fronstin and Holtman also found that factors in addition to wind speed caused severe destruction, including "low quality construction, faulty designs, and flimsy materials."<sup>xxvi</sup>

In the face of Hurricane Andrew, the South Florida Building Code, the local code considered the strongest standard for hurricane protection, "essentially failed."<sup>xxvii</sup> Post-Andrew findings identified three main construction vulnerabilities: roof systems, opening protection, and roof sheathing attachment.<sup>xxviii</sup>

After Andrew, Miami-Dade County conducted a review of its building code and made substantial changes to the code and support systems for its enforcement.<sup>xxix</sup> The enhanced South Florida Building Code (Broward and Dade Counties) with its hurricane mitigation provisions designed to address building envelope weaknesses was implemented in September 1994.<sup>xxx</sup>

The state of Florida also responded to Hurricane Andrew. The predecessor to the Florida Building Commission upgraded the wind resistance standards of the model code used by most local governments, as well as started requiring licensing of local building code enforcement personnel.<sup>xxxvi</sup> And, also like Miami-Dade County, Florida did not stop with improving the old system of various local codes throughout the state.<sup>xxxvii</sup>

In 1996, the Florida Building Codes Study Commission was created to study the existing code system, the local codes under the 1974 law, and make recommendations for improvement.<sup>xxxviii</sup> Sixteen months of study revealed a complicated patchwork of codes with inconsistent development and enforcement by over 400 local jurisdictions and state agencies.<sup>xxxix</sup> *History of the Florida Building Commission* provides that the storm damage from Hurricane Andrew was not due to weaknesses in the codes, but rather the “confusing system of multiple codes and administrative processes.”<sup>xl</sup>

In December 1997, the Florida Building Codes Study Commission recommended a uniform statewide building code, as well as a continued role for the Florida Building Commission.<sup>xli</sup> In 1998, the Florida Legislature adopted the commission’s recommendations for a single state building code developed and maintained by the Florida Building Commission and increased oversight of local code enforcement.<sup>xlii</sup> The legislature directed the Florida Building Commission to develop the FBC.<sup>xliii</sup> The 2000 Legislature evaluated the draft Florida Building Code, and directed amendments, which were then amended, and adopted by Administrative Rule.<sup>xliiii</sup> On March 1, 2002, the first edition of the FBC went into effect and replaced all local codes.<sup>xliii</sup>

The 2001 FBC was based on the Standard Building Code; however, the 2004 FBC edition was based on the I-Codes published by the International Code Council, and subsequent editions have followed suit.

The best metrics to test the new FBC were the hurricanes in the 2004 hurricane season. Hurricane Charley was the only design wind speed storm that year (but produced less rainfall).<sup>xliii</sup> Each storm revealed different weaknesses in the built environment, with the largest

delineation between buildings constructed before the new FBC (undergoing major damage and not safe for shelter), and buildings constructed after the FBC with its stronger provisions, better enforcement, and newer buildings (with less damage and providing shelter to its inhabitants).<sup>xiii</sup> The FBC appeared to result in less structural damage overall (no structural failures observed for structures built to the wind design requirements of the 2001 FBC); however, while observed damage during the 2004 hurricane season revealed major design improvements ensuring a continuous load path in the structural systems, it also identified areas for improvement for the load path for non-structural components and cladding.<sup>xiii</sup>

Wind damage documented during the 2004 hurricanes was similar throughout all of the hurricanes, primarily damaging building envelope<sup>xiv</sup> components and accessory structures.<sup>xv</sup> Most building damage was caused by: (1) insufficient wind resistance of building envelope systems (roof coverings, roof mounted equipment, soffits, wall coverings, and unprotected glazing) that allowed wind-driven water infiltration into buildings and (2) impact of wind-borne debris (primarily in Hurricane Charley).<sup>xvi</sup>

In 2005, more hurricanes tested the FBC. Hurricanes Wilma and Dennis in particular illustrated the improvements in the FBC.<sup>xvii</sup>

Many consider the FBC to be the strongest building code in the country in terms of resistance to hurricanes. However, as the above statements illustrate, there were perceived weaknesses in the FBC after the 2004-2005 hurricane season: that as a general matter, the building code has largely addressed structural system failures, but issues related to water intrusion and the integrity of the building envelope are yet to be fully addressed.<sup>xviii</sup> These elements are crucial to protect building contents as well as prevent internal pressurization and building failure.<sup>xix</sup> This illustrates the need for building codes to continuously improve and evolve to reflect the best science and performance lessons post-disasters.

The Florida Building Commission's 2007 Report to the Legislature discussed the work of the Florida Building Commission and how its decisions are based on the best engineering-based

science available. It stated, “[a]lthough the Code is by law a minimum building code, the Florida Building Code is the strongest consensus and science-based building code in the country.”<sup>i</sup>

### **B. Proven Economic Benefit of the FBC**

The development, implementation, and continuous updating of the FBC have objectively and subjectively paid off.

A 2002 *Florida Building Code Cost and Loss Reduction Benefit Comparison Study* indicated that the FBC would provide “long-term economic benefits of reduced damage and loss for residences built to the FBC.”<sup>ii</sup>

An IBHS study concluded that the frequency of claims for homes constructed to the new FBC after Hurricane Charley was reduced by 60% and the claim was 42% less severe when a loss occurred.<sup>iii</sup> *Post 2004 Hurricane Field Survey – an Evaluation of the Relative Performance of the Standard Building Code and the Florida Building Code* documented performance features and found that homes built to the FBC showed improvements over homes built to the Standard Building Code.<sup>iiii</sup> And a 2008 *Florida Residential Wind Loss Mitigation Study* showed post-FBC homes with significantly reduced losses compared to pre-FBC era homes.<sup>lv</sup>

“... study concluded that the frequency of claims for homes constructed to the new FBC after Hurricane Charley was reduced by 60% and the claim was 42% less severe when a loss occurred.”

A recent working paper from The Risk Management and Decision Processes Center for the Wharton School entitled *Economic Effectiveness of Implementing a Statewide Building Code: The Case of Florida* details the benefits of the FBC:

This study uses ten years of statewide realized insured loss data from 2001 to 2010 to show that the FBC reduced FL windstorm losses by up to 72%, with statistical results robust across a number of specifications and consistent with other previous findings. We then utilize our results to conduct a benefit-cost analysis (BCA) on the implementation of the FBC. We find that the FBC passes the benefit-cost test on the order of 4.8 dollars in losses saved to every 1 dollar spent on new construction, with a payback period for the investment of stronger codes estimated at approximately 10 years.<sup>lv</sup>



And the benefit of the FBC has been realized and expressed by homeowners. A 2012 Florida Building Code Commission report described that homeowners in 2002 who were skeptical of the new FBC

“... FBC passes the benefit-cost test on the order of 4.8 dollars in losses saved to every 1 dollar spent on new construction...”

requirements and its added costs felt safe in their homes during the 2004 and 2005 hurricane seasons.<sup>lv</sup>

### **C. Lessons Learned from the History of the FBC**

Hurricane Andrew illustrated, in horrific detail, the vulnerabilities of a patchwork of building codes across the state with insufficient enforcement. After Andrew, Florida took action and created the Florida Building Commission and the FBC, which has been hailed across the country as the strongest building code against hurricanes, and the testing standards in Miami-Dade and Broward County for the High-Velocity Hurricane Zone are recognized as the industry gold standard.

The FBC's strength is in regularly updating the foundation code to a model code, while still containing Florida-specific requirements. If SB 7000 and HB 901 were adopted, it is possible that jurisdictions could be left to enact their own more restrictive requirements through a local ordinance. And in turn, each jurisdiction will gradually develop differing requirements. This is what was in place prior to the FBC and one of the reasons the FBC was created. This bill would regress the progression of post-Andrew building requirements.

### **III. Potential Negative Ramifications of Senate Bill 7000 and House Bill 901**

The section below addresses some of the potential impacts of SB 7000 and HB 901.

#### **A. Removes Safety Innovations Incorporated within the FBC**

The main concern with Senate Bill 7000 and House Bill 901 is that it compromises the process that ensures the building code is updated to the latest research and technology that is incorporated into the model building codes. Updating building codes every three years ensures that the latest building science is contained within the building code. This includes the newest

engineering and building innovations, as well as lessons learned from building failures or damage.

The FBC is as strong as it is because it is built upon the model codes, and innovation is focused on the Florida-specific changes that matter most to Florida, while building on the “run of the mill”, but equally necessary building code provisions already created and contained in the I-Codes. Model codes anticipate and accommodate adaptation of the code to local conditions. Florida became the leader in the U.S. of strong, and effective, building codes by using the calculus of the foundation code plus Florida-specific amendments. Why fix something that isn't broken?

While Senate Bill 7000 and House Bill 901 provides that code provisions relating to wind resistance or the prevention of water intrusion may not be diminished by amendment, it assumes that the FBC as it exists, stationary in the base code, will forever be equal in strength to the continually improving I-Codes. SB 7000 and HB 901 will weaken the hurricane and flood protections in the FBC, not to mention the normal performance of buildings built to the FBC.

Changes from one code cycle to another range in type depending on the reason necessitating the changes. And the impact of a code cycle can only be viewed in hindsight, with different parties affected differently. Are changes in fire wall separation distances considered minor? Maybe to a contractor, but not to a firefighter or homeowner when seemingly small, but impactful changes lead to safer construction.

Updating construction techniques to modern innovations is the construction industry's obligation to homebuyers and building occupants. There are education opportunities for the construction industry regarding building code updates. Continued education requirements are designed so professionals stay up-to-date with technology and engineering advances. This is a reasonable requirement of the construction industry.

## B. The Costs and Difficulty of Replicating the I-Code Development Process

There are insurmountable logistical difficulties for the Florida Building Commission to adequately create and maintain a building code at a level equivalent to that of the model code organizations.

The model code system is used across the country, and the world, to save governments the costs of creating from the ground up a safe and comprehensive method to provide guidelines for minimum building safety requirements. For more than 80 years, the public-private partnership between model code organizations and government has worked for citizens, industry, and government. Florida does not have the requisite resources to replicate and sustain such a system.

The Commission's members are highly qualified to address building code issues and facilitate the creation and maintenance of a world-class building code. However, it is not feasible that the commission and its staff can create the equivalency of the copyrighted I-Codes. Many of the Commission and TAC members and Boards are volunteer building officials, plans examiners, engineers, architects, and contractors from around the state.

Senate Bill 7000 and House Bill 901 would leave updating the minimum safety requirements for every structure in the state, from residential housing to hospitals to schools, to a committee of individuals with limited resources.

The direct cost for the development and maintenance of the I-Codes by the International Code Council is approximately \$9 million per year. This estimate includes staff time of technical experts (engineers, architects, and other code specialists); coordination of approximately 1,400 referenced standards developed by other standards organizations like NFPA, UL, ASTM, ASHRAE, ASME, ASCE, and others; travel and lodging; and the cost of committee meetings, public hearings, editing, and publication of the model codes. The \$9 million does not include the investment made to develop and maintain cdpACCESS (the cloud-based, online code

“... direct cost for the development and maintenance of the I-Codes by the International Code Council is approximately \$9 million per year.”

development software to increase access to the code development process to the public). Note that the FBC is available to view free of cost online at [ICC publicACCESS](#).

The International Code Council is a U.S.-based, not-for-profit, member-focused organization with 250 employees and more than 63,000 members representing code officials, fire officials, engineers, architects, builders, laborers, manufacturers, building owners, and others with a stake in building safety. Florida is well represented by 2,837 members and 549 voting members.

The ICC does not create the substance and technical provisions of the I-Codes, but instead administers the process. The model codes are developed through a multi-step process meeting recognized voluntary consensus procedure standards, that is open to participation by the public, and is shaped by input from people across the construction industry and beyond. Ultimately, it is the approximately 9,000 governmental members that make the final decision about what should and should not be included in the I-Codes.

Current foundation codes for the 6<sup>th</sup> Edition (2017) FBC include the following fully developed resources:

- The 2015 IBC (736 pages)
- The 2015 IRC (932 pages)
- The 2015 IEBC (324 pages)
- The 2015 International Energy Conservation Code (192 pages)
- The 2015 International Fuel Gas Code (192 pages)
- The 2015 International Mechanical Code (160 pages)
- The 2015 International Plumbing Code (278 pages)

The Florida Building Commission would be endeavoring to become the subject matter experts on not only the material contained in each of these publications, but also the rationale and process behind the evolution of these provisions since their inception, replacing the insight of the approximately 9,000 governmental members that shape the content of the I-Codes.

Senate Bill 7000 and House Bill 901 creates a piecemeal approach to updating the building codes and would result in lessened standards. If the FBC base code remains the same indefinitely, then as the model building codes evolve (see e.g., the evolution from the 2000 IRC to the 2015 IRC), it will be logistically improbable (or impossible) to incorporate these changes. This will leave Florida behind on scientific and engineering innovations, and in turn vulnerable to the extreme natural perils that occur in the state as well as simply leaving behind innovations for normal occupancy.

### **C. Potential for SB 7000 and HB 901 to Negatively Impact Financial Incentives and Federal Funding**

Various federal policies incentivize strong building codes, with ramifications for the availability of FEMA funds post-disaster. The following policies are implicated by Senate Bill 7000 and House Bill 901:

- FEMA Disaster Risk Reduction Minimum Codes and Standards, FEMA Policy 204-078-2 – “FEMA will encourage and, to the extent permitted by law, require the integration and use of nationally recognized voluntary consensus-based building codes and standards consistently across FEMA programs.”<sup>vii</sup>
- FEMA Public Assistance Required Minimum Standards, FEMA Recovery Policy FP-104-009-4 – “FEMA’s Public Assistance program will generally require the integration and use of the hazard-resistant provisions of the International Code Council’s (ICC) International Building Code (IBC), the International Existing Building Code (IEBC), and/or the International Residential Code (IRC) as a minimum design standard for all eligible building restoration projects where the design standard is triggered.”<sup>viii</sup>
- On January 20, 2016, FEMA published an Advance Notice of Proposed Rulemaking seeking comment on a “disaster deductible” concept, which would require a predetermined deductible amount before FEMA grants assistance, including potential credits towards the deductible for activities like prior adoption of enhanced building codes.<sup>lix</sup>

As the above bullets describe, amending the FBC development process will have far-reaching financial impacts, including the availability and amount of disaster relief funds.

#### **IV. Conclusion**

The current FBC system represents an evolution of science, technology, and lessons learned from devastating hurricanes like Hurricane Andrew. It was created to prevent future devastation. Now, with Senate Bill 7000 and House Bill 901, Florida's built environment faces a return to a pre-Andrew, piecemeal system of regulation without sufficient resources to succeed.

The painful lessons of Andrew must not be forgotten. Florida benefits in many respects from the current FBC system, with the most important benefit of public safety. Various studies have documented the proven performance of the FBC in minimizing losses since Andrew.

Furthermore, the FBC system facilitates the receipt of federal disaster funds under new FEMA policies. Senate Bill 7000 and House Bill 901 threatens all of this and will create uncertainty in the Florida construction industry, which will, in turn, threaten economic development.

Costs have been asserted as a rationale for abandoning the current FBC system. Economic development and affordable housing are crucial considerations for construction, but minimum construction standards are a baseline necessity for all construction. Updated, uniform codes help protect real estate investments and facilitate durable and lasting structures by providing a high level of quality and safety. Responsible economic development and growth mean building with the real and dangerous perils Florida faces in mind.

Senate Bill 7000 and House Bill 901 would result in confusion for builders operating across state borders. Model building codes are utilized across the U.S., and out-of-state developers and builders could face increased costs to operate in the new system Senate Bill 7000 and House Bill 901 seeks to establish. Model codes keep construction costs down by establishing uniformity in the construction industry that allows building and materials' manufacturers to do business on a larger scale.

Florida is uniquely at risk because of its high exposure to natural disasters, high population, exponential population growth, and concentrated coastal development. The most important cost of this bill is the safety of Floridians and its many visitors, and this is a cost we cannot

afford to pay. Senate Bill 7000 and House Bill 901 demotes Florida from a national leader in strong building to planned obsolescence.

- 
- <sup>i</sup> FEMA 488. *Mitigation Assessment Team Report. Hurricane Charley in Florida.* p.1-23.
- <sup>ii</sup> Malmstadt, Jill et al. 2009. *Florida Hurricanes and Damage Costs.* Southeastern Geographer, 49(2).
- <sup>iii</sup> FEMA 488, *Mitigation Assessment Team Report. Hurricane Charley in Florida.* p.1-23; FEMA P-762. *Local Officials Guide to Coastal Construction.*
- <sup>iv</sup> Malmstadt, Jill et al. 2009. *Florida Hurricanes and Damage Costs.* Southeastern Geographer, 49(2).
- <sup>v</sup> United States Census Bureau. *Florida Passes New York to Become Nation's Third Most Populous State, Census Bureau Reports.* Dec. 23, 2014. Available: <https://www.census.gov/newsroom/press-releases/2014/cb14-232.html>.
- <sup>vi</sup> The following link shows a map of *United States Landfalling Hurricanes 1941-1960*:  
<http://www.ncdc.noaa.gov/img/climate/severeweather/2hur4160.gif>.
- <sup>vii</sup> Broward County – Board of Rules and Appeals. *History of the South Florida Building Code.*  
<http://www.broward.org/CODEAPPEALS/Pages/HistorySouthFloridaBuildingCode.aspx>.
- <sup>viii</sup> Broward County – Board of Rules and Appeals. *History of the South Florida Building Code.*
- <sup>ix</sup> Broward County – Board of Rules and Appeals. *History of the South Florida Building Code.*
- <sup>x</sup> *2007 Florida Building Code, Existing Building.*  
[http://www2.iccsafe.org/states/Florida2007FinalDraft/existing\\_building/PDFs/07Florida\\_ExistingBuilding.pdf](http://www2.iccsafe.org/states/Florida2007FinalDraft/existing_building/PDFs/07Florida_ExistingBuilding.pdf).
- <sup>xi</sup> Florida Building Commission. *Report to the 2012 Legislature.*  
[http://www.floridabuilding.org/fbc/publications/2012\\_FBC\\_Report\\_and\\_Recommendations\\_2012\\_Legislature.pdf](http://www.floridabuilding.org/fbc/publications/2012_FBC_Report_and_Recommendations_2012_Legislature.pdf); see also, Dixon, Rick. *The Florida Building Code: Florida's Response to Hurricane Risk.*  
[http://www.sbafla.com/method/portals/methodology/WindstormMitigationCommittee/2009/20090917\\_DixonFLBldgCode.pdf](http://www.sbafla.com/method/portals/methodology/WindstormMitigationCommittee/2009/20090917_DixonFLBldgCode.pdf).
- <sup>xii</sup> Florida Building Commission. *Report to the 2004 Legislature.*  
[http://www.floridabuilding.org/fbc/publications/2004\\_Leg\\_Rpt\\_ALL.pdf](http://www.floridabuilding.org/fbc/publications/2004_Leg_Rpt_ALL.pdf).
- <sup>xiii</sup> *Tough Building Code is a Model for State.* Sun Sentinel. June 3, 2001. [http://articles.sun-sentinel.com/2001-06-03/specialsection/0105250926\\_1\\_new-statewide-building-florida-building-code-new-code](http://articles.sun-sentinel.com/2001-06-03/specialsection/0105250926_1_new-statewide-building-florida-building-code-new-code).
- <sup>xiv</sup> *Well-built Homes Survive Storms.* Sun Sentinel. June 1, 2000. [http://articles.sun-sentinel.com/2000-06-01/specialsection/0005260876\\_1\\_florida-building-code-hurricane-winds-construction-standards](http://articles.sun-sentinel.com/2000-06-01/specialsection/0005260876_1_florida-building-code-hurricane-winds-construction-standards).
- <sup>xv</sup> Broward County – Board of Rules and Appeals. *History of the South Florida Building Code.*
- <sup>xvi</sup> Dixon, Rick. *The Florida Building Code: Information for Hurricane Response.*  
<http://www.myfloridacfo.com/ICA/docs/Tab2DixonFloridaBuildingCommissionNov2009.pdf>.
- <sup>xvii</sup> NOAA. *Hurricane Andrew.*  
<http://www.ncdc.noaa.gov/oa/satellite/satelliteseye/hurricanes/andrew92/andrew.html>; FEMA. *Building Performance: Hurricane Andrew in Florida*; National Weather Service Weather Forecast Office, Miami-South Florida. *Hurricane Andrew.* <http://www.srh.noaa.gov/mfl/?n=andrew>.
- <sup>xviii</sup> SunSentinel. *The 11 Worst Hurricanes.* <http://www.sun-sentinel.com/news/local/southflorida/sfl-aug2001hurricanehistory,0,637516.storygallery>.
- <sup>xix</sup> FEMA. *Building Performance: Hurricane Andrew in Florida.* Exec. Summary.
- <sup>xx</sup> FEMA. *Building Performance: Hurricane Andrew.* Exec. Summary.
- <sup>xxi</sup> National Weather Service Weather Forecast Office, Miami-South Florida. *Hurricane Andrew.*  
<http://www.srh.noaa.gov/mfl/?n=andrew>.
- <sup>xxii</sup> National Weather Service Weather Forecast Office, Miami-South Florida. *Hurricane Andrew.*  
<http://www.srh.noaa.gov/mfl/?n=andrew>.
- <sup>xxiii</sup> Florida Building Commission. *Report to the 2012 Legislature.*

- xxiv The Florida Catastrophic Storm Risk Management Center. 2009. *The Capitalization of Stricter Building Codes in Miami, Fla., House Prices*. Available: <http://www.stormrisk.org/sites/default/files/Capitlization%20of%20Building%20Codes%20Miami.pdf>.
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- xxvi The Florida Catastrophic Storm Risk Management Center. 2009. *The Capitalization of Stricter Building Codes in Miami, Fla., House Prices*.
- xxvii Florida Building Commission. *Report to the 2012 Legislature*.
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- xxix Florida Building Commission. *Report to the 2012 Legislature*.
- xxx Miami-Dade County Building Code Compliance Office. 2006. *Post Hurricane Wilma Progress Assessment*. <http://www.miamidade.gov/building/library/reports/wilma-assessment.pdf>.
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- xxxii Florida Building Commission. *Report to the 2012 Legislature*.
- xxxiii Florida Building Commission. *Report to the 2012 Legislature*.
- xxxiv *History of the Florida Building Commission*.  
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- xxxvi Florida Building Commission. 2013. *Key Commission Milestones July 1996 to Present*. Available: <http://consensus.fsu.edu/FBC/FBC-Docs-2/FBC%20Milestones%20June%202013.pdf>.
- xxxvii Florida Building Commission. *Report to the 2012 Legislature*. For more background, see the Staff Analysis for House Bill 4181:  
<http://archive.flsenate.gov/data/session/1998/House/bills/analysis/pdf/HB4181.CA.pdf>.
- xxxviii Florida Department of Community Affairs. 2003. *The Florida Building Commission Report to the 2003 Legislature*.  
<http://www.floridabuilding.org/fbc/publications/FULL%20Report%20and%20Cover%20-%20Legislature%202003-021303.pdf>
- xxxix Florida Department of Community Affairs. 2003. *The Florida Building Commission Report to the 2003 Legislature*.  
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- xl Florida Building Commission. *Report to the 2012 Legislature*.
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[http://www.sbafla.com/method/portals/methodology/WindstormMitigationCommittee/2009/20090917\\_DixonFLBldgCode.pdf](http://www.sbafla.com/method/portals/methodology/WindstormMitigationCommittee/2009/20090917_DixonFLBldgCode.pdf)
- xlii Florida Building Commission. *Report to the 2012 Legislature*.
- xliiii FEMA 490. 2005. *Summary Report on Building Performance, 2004 Hurricane Season*, p. 11.
- xliiv Building envelope includes "exterior doors, non-load bearing walls, wall coverings, soffits, roof coverings, windows, shutters, skylights and exterior-mounted mechanical and electrical equipment." FEMA 490. p. 11
- xliv FEMA 490. *Summary Report on Building Performance, 2004 Hurricane Season*, p. 11.
- xlvi FEMA 490. *Summary Report on Building Performance, 2004 Hurricane Season*, p. 11.
- xlvii Florida Building Commission. *Report to the 2012 Legislature*.
- xlviii FEMA 489. *Hurricane Ivan in Alabama and Florida*. [http://www.fema.gov/media-library-data/20130726-1458-20490-9088/fema\\_489\\_hurricane\\_ivan\\_bpat.pdf](http://www.fema.gov/media-library-data/20130726-1458-20490-9088/fema_489_hurricane_ivan_bpat.pdf).
- xlix FEMA 489. *Hurricane Ivan in Alabama and Florida*.
- <sup>1</sup> The Florida Building Commission. *Report to the 2007 Legislature*.  
[http://www.floridabuilding.org/fbc/publications/FBC\\_Report\\_to\\_2007\\_Legislature.pdf](http://www.floridabuilding.org/fbc/publications/FBC_Report_to_2007_Legislature.pdf).
- <sup>ii</sup> Shimberg Center for Affordable Housing, Applied Research Associates, Inc. 2002. *Florida Building Code Cost and Loss Reduction Benefit Comparison Study*.  
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- <sup>lii</sup> Institute for Business and Home Safety. 2014. *Hurricane Charley – Executive Summary*. Available: <https://www.disastersafety.org/wp-content/uploads/hurricane-charley-report.pdf>.
- <sup>liii</sup> Gurley, Kurtis, et al. 2006. *Post 2004 Hurricane Field Survey – an Evaluation of the Relative Performance of the Standard Building Code and the Florida Building Code*. [http://www.floridabuilding.org/fbc/publications/Report\\_SurveyProject\\_Gurley\\_33006.pdf](http://www.floridabuilding.org/fbc/publications/Report_SurveyProject_Gurley_33006.pdf).
- <sup>liiv</sup> Applied Research Associates, Inc. 2008 *Florida Residential Wind Loss Mitigation Study*. <http://www.floir.com/sitedocuments/aratlossmitigationstudy.pdf>.
- <sup>liv</sup> Simmons, Kevin, et al, 2016, *Economic Effectiveness of Implementing a Statewide Building Code: The Case of Florida*. Working Paper # 2016-01. Risk Management and Decision Processes Center, The Wharton School. [http://opim.wharton.upenn.edu/risk/library/WP201601\\_Simmons-Czajkowski-Done\\_Effectiveness-of-Florida-Building-Code.pdf](http://opim.wharton.upenn.edu/risk/library/WP201601_Simmons-Czajkowski-Done_Effectiveness-of-Florida-Building-Code.pdf).
- <sup>lvi</sup> Florida Building Commission. *Report to the 2012 Legislature*.
- <sup>lvii</sup> FEMA. Disaster Risk Reduction Minimum Codes and Standards. FEMA Policy 204-078-2. September 6, 2016. <http://www.iccsafe.org/wp-content/uploads/FP-204-078-2.pdf>.
- <sup>lviii</sup> FEMA. *Public Assistance Required Minimum Standards Policy*. September 30, 2016. <https://www.fema.gov/media-library/assets/documents/124326>.
- <sup>lix</sup> Proposed Rule. *Establishing a Deductible for FEMA's Public Assistance Program*. 81 FR 3082 (January 20, 2016). <https://www.federalregister.gov/documents/2016/01/20/2016-00997/establishing-a-deductible-for-femas-public-assistance-program>.



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson,  
Committee on Regulated  
Industries

**Subject:** Committee Agenda Request

**Date:** March 15th, 2017

---

I respectfully request that **Senate Bill #860**, relating to **Building Code Administrators and Inspectors** be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

\_\_\_\_\_  
Senator Jeff Brandes  
Florida Senate, District 24

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-28-2017

Meeting Date

SB 860

Bill Number (if applicable)

Topic CS/SB 860 Florida Bldg Code

Amendment Barcode (if applicable)

Name SARA YERKES

Job Title Senior VP - ICC

Address 500 M. Jersey Ave NW  
Street

Phone 202-327-3177

WDC 20001  
City State Zip

Email syerkes@iccsafe.org

Speaking:  For  Against  Information

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

Representing International Code Council

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-28-17

Meeting Date

860

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Dale Calhoun

Job Title Executive Director

Address 201 S Monroe St Unit A

Phone 850 681 0196

Street

Tallahassee FL 32301

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Natural Gas Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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Reg Incl

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17  
Meeting Date

860  
Bill Number (if applicable)

Topic Building Code

Amendment Barcode (if applicable)

Name Tom Deckert

Job Title Building Official

Address 1036 Tunahill Dr.  
Street

Phone 850-443-7124

Tallahassee FL 32317  
City State Zip

Email TDECKERT@FSU.EDU

Speaking:  For  Against  Information

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

Representing Building Officials Assoc of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

3-20-17

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

SB 860

Meeting Date

Bill Number (if applicable)

Topic FLORIDA BUILDING CODE

Amendment Barcode (if applicable)

Name KARI HEBRANK

Job Title

Address 113 EAST COLLETT AVENUE

Phone 850-566-7824

TALLAHASSEE FL 32301

Email khebrank@wilsonmgmt.com

Speaking:  For  Against  Information

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

Representing FLORIDA HOME BUILDERS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

3-28-17

Meeting Date

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

CS/SB 860

Bill Number (if applicable)

Topic BUILDING CODES

Amendment Barcode (if applicable)

Name CAM FENTRIS

Job Title LEGISLATIVE COUNSEL

Address 1400 VILLAGE SQUARE # 3-243

Phone 850-222-2772

Street

TALLAHASSEE FL 32312

City

State

Zip

Email CFENTRIS@AOL.COM

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

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

Representing FCA ROOFING + SHEET METAL CONTRACTORS ASSN

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3-28-17  
Meeting Date

CS/SB 860  
Bill Number (if applicable)

Topic BUILDING CODES

Amendment Barcode (if applicable)

Name CAM FENYTRISS

Job Title LEGISLATIVE COUNSEL

Address 1400 VILLAGE SQ # 3-243  
Street

Phone 850-222-2772

TALLAHASSEE FL 32312  
City State Zip

Email

Speaking:  For  Against  Information

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

Representing FLA. REFRIGERATION & AIR CONDITIONING CONTRACTORS ASSN

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17  
Meeting Date

SB 860  
Bill Number (if applicable)

Topic Fla. Bldg Code

Amendment Barcode (if applicable)

Name Deborah Lawson

Job Title

Address PO Box 12277  
Street

Phone 850-570-0033

Tallahassee FL 32317  
City State Zip

Email lawson.deborah.e@gmail.com

Speaking:  For  Against  Information

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

Representing Fla. Roof Deck Assn

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17

Meeting Date

SR 860

Bill Number (if applicable)

Late Filed Amend. Perry

Amendment Barcode (if applicable)

Topic Bldg. Code

Name Bruce Kershner

Job Title

Address 231 West Bay Ave

Street

Phone 407-8307882

Longwood

FL

32750

City

State

Zip

Email BKershner@all.net

Speaking:  For  Against  Information

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

Representing United Pool & Spa Assn

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17  
Meeting Date

SB 860  
Bill Number (if applicable)  
Perry Late Filed  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Jennifer Hatfield

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

Address 411 Lenore Ct.  
Street  
Rockledge FL 32955  
City State Zip

Phone 941-345-3263

Email jenh@wilsonmgmt.com

Speaking:  For  Against  Information

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

Representing FL Swimming Pool Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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# APPEARANCE RECORD

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

3/28/17

Meeting Date

1st  
on Amend.

860

Bill Number (if applicable)

Topic POOL CONTRACTING

Perry Amendment  
Amendment Barcode (if applicable)

Name JIM MAGILL

Job Title LOBBYIST

Address 101 N. MONROE ST SUITE 1090

Phone 681-0411

Street

City

TLM

FL

State

32301

Zip

Email JAMES.MAGILL@BIPZ.COM

Speaking:  For  Against  Information

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

Representing Penny A Penny Pools

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/28/17  
Meeting Date

860  
Bill Number (if applicable)

Topic BUILDING CODE BILL

Amendment Barcode (if applicable)

Name MICHAEL RIMOLDI

Job Title SENIOR VICE PRES

Address 1706 METROPOLITAN  
Street

Phone 813 830 1674

TALLAHASSEE FL 32308  
City State Zip

Email mike@flash.org

Speaking:  For  Against  Information

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

Representing FLASH, INC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

3/28/17

Meeting Date

860

Bill Number (if applicable)

Topic Bldg. Codes

Amendment Barcode (if applicable)

Name Rusty Patton

Job Title CEO

Address 2600 Centennial Place

Phone 567-1073

Street

Jolly FL 32317

City

State

Zip

Email rpattson@fhba.com

Speaking:  For  Against  Information

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

Representing Florida Home Builders

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.

# CourtSmart Tag Report

Room: EL 110  
Caption: Senate Regulated Industries

Case No.:  
Judge:

Type:

Started: 3/28/2017 11:02:16 AM

Ends: 3/28/2017 11:47:54 AM Length: 00:45:39

11:02:14 AM Come to order  
11:02:32 AM Pledge  
11:02:34 AM Roll call  
11:02:37 AM Quorum is present  
11:02:55 AM Senator Hukill is excused  
11:03:13 AM SB 472 by Senator Grimsley  
11:03:25 AM Sen. Grimsley to explain the bill  
11:03:55 AM Amendment barcode 279082 by Sen. Grimsley  
11:04:03 AM Sen. Grimsley to explain the amendment  
11:04:10 AM Amendment is adopted  
11:04:15 AM Bill as amended  
11:04:19 AM Sen. Grimsley waives to close  
11:04:24 AM CS/SB 472 is reported favorably  
11:04:52 AM SB 744 by Senator Passidomo  
11:04:58 AM Sen. Passidomo to explain the bill  
11:07:06 AM Amendment barcode 846426 by Sen. Passidomo  
11:07:19 AM Amendment to amendment 868700 by Chair Hutson  
11:07:41 AM Sen. Hutson passes chair to Sen. Braynon  
11:07:53 AM Sen. Hutson to explain the amendment to the amendment  
11:08:10 AM Kari Helorark for Florida Home Builders Association waives in support  
11:08:30 AM Sen. Passidomo acknowledges this is a friendly amendment  
11:08:39 AM Amendment to the amendment adopted  
11:08:50 AM Discussion on the amendment barcode 846426  
11:09:03 AM Amendment is adopted  
11:09:06 AM Questions on the bill as amended  
11:09:13 AM Sen. Young with a series of questions  
11:11:25 AM Rick Butcher for Florida Fire Chiefs Association speaking in opposition  
11:14:37 AM Steve Peavey with International Fire Marshalls Association speaking in opposition  
11:16:40 AM Justin Thames with Florida Institute of CPAs waives in support  
11:17:30 AM Fred Dudley with Association of Construction Consumers speaking in opposition  
11:18:58 AM Buddy Dewar with Florida Fire Sprinkler Association speaking in opposition  
11:23:52 AM William Stander with American Fire Sprinkler Association FL Ch. speaking in opposition  
11:25:45 AM Sen. Gibson with a series of questions  
11:27:35 AM Ellyn Bogdanoff with Several Association speaking in support  
11:29:49 AM Sen. Benacquisto with a question  
11:30:16 AM Jim Tolley with Florida Professional Firefighters speaking in opposition  
11:31:01 AM Richard Pinsky with Cyber Citizens speaking in support  
11:31:39 AM Jim Millican with Lealman Fire District waives in opposition  
11:31:59 AM Sen. Gibson in debate on the bill as amended  
11:34:08 AM Sen. Passidomo waives close  
11:34:23 AM CS/SB 744 is reported favorably  
11:34:44 AM SB 1272 by Senator Brandes  
11:34:50 AM Sen. Brandes to explain the bill  
11:36:06 AM Amendment barcode 667438 by Sen. Brandes  
11:36:45 AM Amendment is adopted  
11:36:49 AM Questions on the bill as amended  
11:37:01 AM Sen. Brandes to close on the bill as amended  
11:37:13 AM CS for SB 1272 is reported favorably  
11:37:40 AM CS/SB 860 860 by Senator Brandes  
11:37:54 AM Sen. Brandes to explain the bill  
11:38:16 AM Late-filed amendment is taken up  
11:38:23 AM Amendment barcode 175948 by Senator Perry

**11:38:31 AM** Sen. Perry to explain the amendment  
**11:38:49 AM** Jim Magill waives in support  
**11:39:30 AM** Jennifer Hatfield waives in support  
**11:39:39 AM** Bruce Kershner waives in support  
**11:39:45 AM** Amendment is adopted  
**11:40:26 AM** Dale Calhoun waive in support  
**11:40:48 AM** Kari Hebrank waives in support  
**11:41:18 AM** Cam Fentriss waives in support  
**11:41:33 AM** Deborah Lawson waives in support  
**11:41:46 AM** Michael Rimoldi with Flash, Inc. speaking in opposition  
**11:42:45 AM** Sara Yerkes with International Code Council speaking in opposition  
**11:44:24 AM** Chair Hutson with a question  
**11:44:43 AM** Rusty Payton with Florida Home Builders speaking in support  
**11:46:03 AM** Tom Deckett waives in opposition  
**11:46:19 AM** Chair Hutson in debate  
**11:46:49 AM** Sen. Brandes waives close  
**11:46:54 AM** CS/SB 860 is reported favorably  
**11:47:22 AM** Sen. Benacquisto moves to show in support of SB 744 and SB 472  
**11:47:40 AM** Meeting adjourned