

Tab 3	SB 1488 by Garcia ; (Compare to H 00715) Lottery Retailer Compensation					
Tab 4	SB 1312 by Collins (CO-INTRODUCERS) Rodriguez ; (Identical to H 01593) Regulatory Assessment Fees					
Tab 5	CS/SB 162 by EN, Collins ; (Similar to CS/CS/H 00023) Water and Wastewater Facility Operators					
493716	A	S	RCS	RI, Collins	Delete L.27 - 98:	03/29 02:41 PM
Tab 6	SB 534 by Trumbull ; (Identical to H 00523) Individual Wine Containers					
Tab 7	SB 1570 by Hooper (CO-INTRODUCERS) Osgood ; (Similar to H 01625) Local Occupational Licensing					
829920	D	S	RCS	RI, Hooper	Delete everything after	03/29 02:42 PM
Tab 8	SB 406 by Hooper ; (Identical to H 00083) Yacht and Ship Brokers					
686642	A	S	RCS	RI, Hooper	Delete L.27 - 2400:	03/29 02:42 PM
Tab 9	SB 782 by Hooper ; (Similar to CS/H 00869) Department of Business and Professional Regulation					
582354	A	S	RCS	RI, Hooper	Delete L.147 - 302:	03/29 02:42 PM
Tab 10	SPB 7044 by RI ; Changes in Ownership of or Interest in Pari-mutuel Permits					
879290	A	S	RCS	RI, Hooper	btw L.65 - 66:	03/29 02:44 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Gruters, Chair
Senator Hooper, Vice Chair

MEETING DATE: Wednesday, March 29, 2023**TIME:** 12:00 noon—3:00 p.m.**PLACE:** James E. "Jim" King, Jr Committee Room, 401 Senate Building**MEMBERS:** Senator Gruters, Chair; Senator Hooper, Vice Chair; Senators Bradley, Brodeur, Davis, Hutson, Jones, Osgood, Perry, and Simon

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Secretary of the Department of the Lottery			
1	Davis, John F. (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 9 Nays 0
Secretary of Business and Professional Regulation			
2	Griffin, Melanie (Tampa)	Pleasure of Governor	Recommend Confirm Yeas 9 Nays 0
TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1488 Garcia (Compare H 715, H 5003)	Lottery Retailer Compensation; Requiring that specified compensation be paid to retailers for Florida Lottery ticket sales; deleting a limitation on additional retailer compensation, etc. RI 03/29/2023 Favorable AEG FP	Favorable Yeas 9 Nays 0
4	SB 1312 Collins (Identical H 1593)	Regulatory Assessment Fees; Exempting certain rules adopted by the Florida Public Service Commission relating to regulatory assessment fees from the required filing of statements of estimated regulatory costs and from submission for legislative ratification, etc. RI 03/29/2023 Favorable RC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Wednesday, March 29, 2023, 12:00 noon—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 162 Environment and Natural Resources / Collins (Similar CS/CS/H 23)	Water and Wastewater Facility Operators; Revising legislative findings and intent; requiring the Department of Environmental Protection to issue water treatment plant operator licenses, water distribution system operator licenses, and domestic wastewater treatment plant operator licenses by reciprocity to certain applicants; providing licensure requirements; authorizing the department to issue temporary operator licenses during a declared state of emergency, etc. EN 03/20/2023 Fav/CS RI 03/29/2023 Fav/CS FP	Fav/CS Yeas 8 Nays 0
6	SB 534 Trumbull (Identical H 523)	Individual Wine Containers; Repealing provisions relating to the limitation of size of individual wine containers, etc. RI 03/29/2023 Temporarily Postponed CM RC	Temporarily Postponed
7	SB 1570 Hooper (Similar H 1625, S 1584, Compare H 1383)	Local Occupational Licensing; Prohibiting local governments from requiring a license issued by the local government or the state for certain job scopes; authorizing local governments to impose local licensing requirements for certain specialty job scopes, etc. RI 03/29/2023 Fav/CS RC	Fav/CS Yeas 8 Nays 0
8	SB 406 Hooper (Identical H 83)	Yacht and Ship Brokers; Renaming the Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation as the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes; exempting a visiting broker from licensure for specified transactions; requiring, rather than authorizing, the division to deny licenses for applicants who fail to meet certain requirements; revising requirements for licensure as a broker, etc. RI 03/29/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Wednesday, March 29, 2023, 12:00 noon—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 782 Hooper (Identical H 869)	Department of Business and Professional Regulation; Requiring the department to certify for licensure qualified individuals who practice mold assessment or mold remediation and hold certain licenses issued by other states or territories; revising requirements for the issuance of an asbestos consultant's license; removing a time limitation for applying for certain contracting licenses under certain provisions; requiring licensees and licensed agents to maintain a division online account and provide the division with specified information; deleting a requirement limiting the types of boxing exhibitions which require a specified maximum difference in participant weights, etc. RI 03/29/2023 Fav/CS AEG FP	Fav/CS Yeas 8 Nays 0
Consideration of proposed bill:			
10	SPB 7044	Changes in Ownership of or Interest in Pari-mutuel Permits; Revising entities authorized to hold pari- mutuel wagering permits and associated licenses; specifying such entities may hold a license for the operation of a cardroom, etc.	Submitted and Reported Favorably as Committee Bill Yeas 8 Nays 0
Other Related Meeting Documents			

1405

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

I, Cord Byrd, Secretary of State,
do hereby certify that

John F. Davis

is duly appointed

**Secretary,
Department of Lottery**

for a term beginning on the Twenty-Sixth day of January, A.D.,
2023, to serve at the pleasure of the Governor and is subject to
be confirmed by the Senate during the next regular session of the
Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-First day of February, A.D., 2023.*



[Signature]
Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



RON DeSANTIS
GOVERNOR

RECEIVED

2023 FEB -2 PM 2:15

DIVISION OF ELECTIONS
TALLAHASSEE, FL

January 26, 2023

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

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

Mr. John Davis
3604 Oriskany Drive
Orlando, Florida 32820

as the Secretary of the Department of Lottery, subject to confirmation by the Senate.
This appointment is effective January 26, 2023, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis", with a stylized flourish extending from the end.

Ron DeSantis
Governor

RD/ch

HAND DELIVERED

OATH OF OFFICE
(Art. II, § 5(b), Fla. Const.)

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STATE OF FLORIDA

2023 FEB 16 PM 1:32

County of Leon

NOTARY PUBLIC
TALLAHASSEE, FL

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

Secretary, Department of Lottery
(Title of Office)

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

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

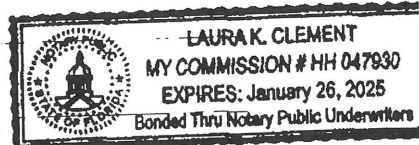
[Signature]
Signature

Sworn to and subscribed before me by means of ☒ physical presence or
☐ online notarization, this 14th day of February, 2023

[Signature]
Signature of Officer Administering Oath or of Notary Public

Laura K. Clement

Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced N/A

ACCEPTANCE

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

Mailing Address: ☐ Home ☒ Office

250 Marriott Drive

Street or Post Office Box

Tallahassee, FL 32301

City, State, Zip Code

John F. Davis

Print Name

[Signature]
Signature

127307

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation.
The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate.
Please type or print in blue or black ink.

02/14/2023

Date Completed

1. Name: Mr. Davis John F.
Mr./Mrs./Ms. Last First Middle/Maiden
2. Business Address: 250 Marriott Drive 2nd Floor Tallahassee
Street Office # City
N/A FL 32301 850-487-7728
Post Office Box State Zip Code Area Code/Phone Number
3. Residence Address: 2221 Orange Ave. East Apt 534 Tallahassee Leon
Street City County
N/A FL 32311
Post Office Box State Zip Code Area Code/Phone Number
- Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
2221 Orange Ave. East, Apt 534	Tallahassee, FL	Nov/2020	Present
3604 Oriskany Drive	Orlando, FL	Sep/2014	Present

- B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
N/A			

5. Date of Birth: _____ Place of Birth: Pahokee, FL
6. Social Security Number: _____
7. Driver License Number: _____ Issuing State: FL
8. Have you ever used or been known by any other legal name? Yes ☒ No ☐ If "Yes" Explain
Nickname is JD

HAND DELIVERED

RECEIVED

 2023 FEB 16 PM 1:32
 DIVISION OF ELECTIONS
 TALLAHASSEE, FL

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1971

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Orange B. Current Party Affiliation: Republican

12. Education

A. High School: Pahokee Jr-Sr High, Pahokee, FL Year Graduated: 1989
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Florida State University, Tallahassee, FL</u>	<u>1989 - 1994</u>	<u>B.S., Political Science</u>
_____	_____	_____
_____	_____	_____

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☒ No ☐ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
<u>1995-96 (approx.; not sure of actual date);</u>	<u>Casselberry, FL;</u>	<u>violation of city ordinance;</u>	<u>case dismissed due to</u>
<u>being falsely identified. Expunged.</u>	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Florida Lottery, 250 Marriott Dr, Tall, 32301; State Govt</u>	_____	<u>Secretary</u>	<u>Nov 9, 2020-Present</u>
<u>Orlando Rgnl Chamber of Commerce, 301 E. Pine St, Orlando, 32801; Chamber; Exec VP; Feb 2018-Nov 2020</u>	_____	_____	_____
<u>African Am Chamber of Commerce of Central FL, 3201 E. Colonial Dr., Orlando, 32803; Pres; Jan 2014-Feb 2018</u>	_____	_____	_____

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Secretary</u>	<u>Florida Lottery</u>	<u>Nov 2020-Present</u>
<u>External Affairs Director</u>	<u>FL Dept of Children & Families</u>	<u>2011-2014</u>
<u>Planning & Eval Specialist</u>	<u>FL Dept of State</u>	<u>1995-1997</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have been a standout performer and accomplished leader for almost 30 years in both the public and private sectors. These accomplishments include building/establishing organizational structures that accelerates revenue and growth across diverse communities, organizations and businesses. I am an active member of my community, noticeably volunteering my time with the United Way, Valencia College, Volunteer Florida, FAMU Law Dean's Advisory Council, and the Kappa Alpha Psi Achievement Foundation, most of which are rooted in supporting youth and students to help them achieve academic success and to realize their dreams.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

Kappa Alpha Psi Fraternity Achievement Foundation-Board Member, 2019-Present; Valencia College-District Board of Trustees, 2019-Present; Commission on Community Service/Volunteer FL-Commissioner, 2018-Present
Florida A&M Law School-Advisory Council Member, 2018-Present
Service Academy Nomination Board (Senator Marco Rubio), 2019 and 2020
Youth Advocate Programs-National Board Member, 2015-2018; Florida Council on the Social Status of Black Men and Boys, Board Representative, 2011-2014

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
District Board of Trustees, Valencia College;	2019-Present	3 years	Regional
Commission on Community Service;	2018-Present	2 years	Statewide
Service Academy Nomination Board (Senator Marco Rubio);	2018 and 2019		Federal

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Monthly

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
Board of Trustees, Valencia College	1-2	Conflicted with Lottery responsibilities
Commission on Community Service	1-2	Conflicted Lottery responsibilities

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐
If "Yes", list:

A. Title of Office: Board of Trustees of Valencia College and Florida Commission on Community Service (CCS)

B. Term of Appointment: 8/16/2019-5/31/2022 (Valencia) and 10/15/2021-9/14/2023 (CCS)

C. Confirmation results: Confirmed, 3/13/2020 (Valencia) and Confirmed, 2/03/2022 (CCS)

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☐ No ☒
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u> <u>Title & Number</u>	<u>Original</u> <u>Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Registered as a lobbyist for the Department of the Lottery	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Jamal Sowell			
Jason Gonzalez			
Wesley Leonard		7	

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Please see attached.			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

HAND DELIVERED

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CERTIFICATION

2023 FEB 16 PM 1:32

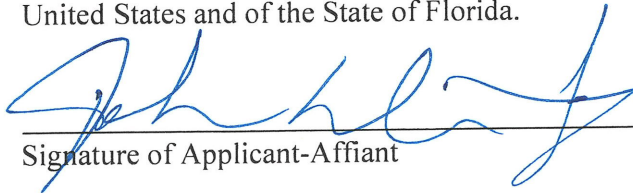
STATE OF FLORIDA

COUNTY OF Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared
John F. Davis

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

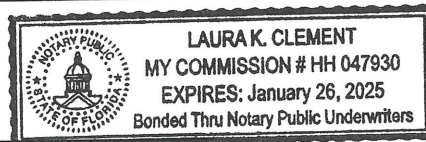

Signature of Applicant-Affiant

Sworn to and subscribed before me this 14th day of February, 2023.


Signature of Notary Public-State of Florida

Laura K. Clement

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



My commission expires: 01/26/2025

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced N/A

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- ☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.
Please type or use blue ink.

1. Board of Interest: Florida Department of Lottery

2. Current Employer and Occupation: Florida Lottery, Secretary

3. Are you applying for reappointment: Yes ☒ No ☐

4. *Do you have a disability? Yes ☐ No ☒ If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male ☒ Female ☐

6. *Race: White ☐ African-American ☒
Hispanic-American ☐ Asian/Pacific Islander ☐
Native-American/Alaskan Native ☐

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor. **No**

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

Work with programs at DCF or DJJ.

John F. Davis

Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

Questionnaire for Senate Confirmation (#28)

John F. Davis
Florida Lottery Secretary

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
Kappa Alpha Psi Fraternity Achievement Foundation	P.O. Box 3572 Winter Park, FL 32789	Board Member	2019-Present
Valencia College	1800 S. Kirkman Rd Orlando, FL 32811	District Board of Trustees	2019-Present
Commission on Community Service/Volunteer FL	1545 Raymond Diehl Rd, Ste 250 Tallahassee, FL 32308	Commissioner	2018-Present
Florida A&M Law School	201 Beggs Ave Orlando, FL 32801	Advisory Council Member	2018-Present
Heart of Florida United Way	1940 Cannery Way Orlando, FL 32804	Board Member	2016-Present
Governor Ron DeSantis Re-Open Florida Task Force	The Honorable Ron DeSantis 400 S. Monroe St Tallahassee, FL 32399-0001	Member	2020
Merchant Marines Regional Board, Senator Marco Rubio	The Honorable Marco Rubio 201 S. Orange Ave, Ste 350 Orlando, FL 32801	Member	2019 – 2021
CareerSource, Central Florida	390 N. Orange Ave, Ste 700 Orlando, FL 32801	Board Member	2016-2019
Chronic Homelessness Committee, Central Florida	4065 L B McLeod Rd D Orlando, FL 32811	Member	2017
Orlando Economic Development Commission	301 E. Pine St, Ste 900 Orlando, FL 32801	Board Member	2016
Youth Advocate Programs	1801 Watermark Dr, Ste 200 Columbus, OH 43215	National Board Member	2015-2018
Florida Council on the Social Status of Black Men and Boys	Office of the Attorney General 107 W. Gaines St Tallahassee, FL 32301	Board Representative	2011-2014

The Florida Senate
COMMITTEE NOTICE OF HEARING

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

John F. Davis
Appointee Name

Department of the Lottery
Board Name

NOTICE OF HEARING

TO: Mr. Davis
Appointee Title and Name

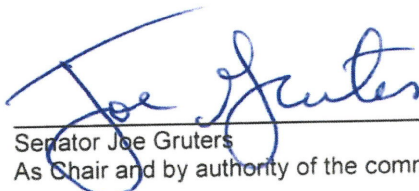
YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida

Senate will conduct a hearing on your executive appointment on Wednesday, March 29, 2023 in the James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building, commencing at 12:00 pm noon, pursuant to Rule 12 of the Rules of the Florida Senate.

Please be present at the time of the hearing.

DATED this the 24th day of March, 2023.

Committee on Regulated Industries



Senator Joe Gruters
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

3/29/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

reconfirmation
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

John F. Davis

Phone

(850) 661-2460

Address

250 Marriott Drive

Email

DavisJ@flalottery.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

☐ For

☐ Against

☒ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

125

**STATE OF FLORIDA
DEPARTMENT OF STATE**

Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

Melanie S. Griffin

is duly appointed

Secretary,

**Department of Business and Professional
Regulation**

for a term beginning on the Twenty-Sixth day of January, A.D.,
2023, to serve at the pleasure of the Governor and is subject to
be confirmed by the Senate during the next regular session of the
Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Ninth day of March, A.D., 2023.*

A handwritten signature in black ink, appearing to read "C. Byrd".

Secretary of State



RON DeSANTIS
GOVERNOR

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2023 FEB -2 PM 2:15

DIVISION OF ELECTIONS
TALLAHASSEE, FL

January 26, 2023

Secretary Cord Byrd
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised I have made the following reappointment under the provisions of Section 20.165, Florida Statutes:

Mrs. Melanie Griffin
4220 West Corona Street
Tampa, Florida 33629

as Secretary of the Department of Business and Professional Regulation, subject to confirmation by the Senate. This appointment is effective January 26, 2023; for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to be "Ron DeSantis".

Ron DeSantis
Governor

RD/ch

OATH OF OFFICE
(Art. II, § 5(b), Fla. Const.)

HAND DELIVERED

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STATE OF FLORIDA

2023 MAR -6 PM 4:30

County of Leon

NOTARY PUBLIC
TALLAHASSEE, FL

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

Secretary of Business and Professional Regulation

(Title of Office)

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

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

Melanie S. Griffin
Signature

Sworn to and subscribed before me by means of ☒ physical presence or
☐ online notarization, this 6th day of March, 2023.

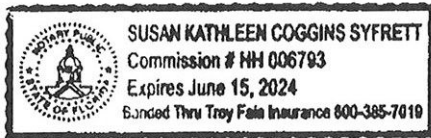
Susan Kathleen Coggins Syfrett
Signature of Officer Administering Oath or of Notary Public

Susan Kathleen Coggins Syfrett
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced _____



ACCEPTANCE

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

Mailing Address: ☐ Home ☒ Office

2601 Blair Stone Road

Street or Post Office Box

Tallahassee, FL 32399

City, State, Zip Code

Melanie S. Griffin

Print Name

Melanie S. Griffin
Signature

127340

HAND DELIVERED

✓

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

03/06/2023

Date Completed

1. Name: Mrs. Griffin Melanie Shoemaker
 Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2601 Blair Stone Road Tallahassee
 Street Office # City
Florida 32399-1000 (850) 487-9512
 Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 4220 West Corona Street Tampa Hillsborough
 Street City County
Florida 33629
 Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☐ Residence ☒ Fax # _____
 (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
N/A - have lived at residence listed above since July 1, 2014.			

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
N/A			

5. Date of Birth: _____ Place of Birth: Bradenton, FL, Manatee County, USA

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☒ No ☐ If "Yes" Explain
Nee: Melanie Christine Shoemaker

2023 MAR -6 PM 4:31
 DIVISION OF ELECTIONS
 TALLAHASSEE, FL

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9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1980

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Hillsborough

B. Current Party Affiliation: Republican

12. Education

A. High School: Manatee High School, Bradenton, FL

Year Graduated: 1999

(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Florida State University, Tallahassee, FL	1999-2003	Bachelor of Science, Finance
Florida State University, Tallahassee, FL	2003-2006	Master of Business Administration
Florida State University, Tallahassee, FL	2003-2006	Juris Doctor

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
-------------	--------------	---------------	--------------------

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
DBPR - 2601 Blair Stone Rd, Tallahassee, FL	State Agency	Secretary	01/01/2022-Present
Shumaker, Loop & Kendrick, LLP; 101 E. Kennedy Blvd, Ste 2800, Tampa, FL 33602	Law Firm/Attorney		07/09/2019-Present
Shumaker Advisors Florida; 101 E. Kennedy Blvd, Ste 2800, Tampa, FL 33602	Senior Advisor		07/09/2019-12/31/2021

Please consult resume attached for additional employment information.

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
-----------------	-------------------------	-----------------------------

Please consult resume attached.

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Service as DBPR Secretary is a culmination of all of my educational and professional experiences. During undergrad and grad school, I focused on obtaining Finance, MBA, and Law Degrees, education focused on best serving the business community that makes up DBPR's constituency. During this time, I twice worked at DBPR as a Law Clerk and served as a Speaker's House Fellow in the Florida House of Representatives Business Regulation Committee in addition to other government employment. As a lawyer, my nearly 15-year law practice was centered almost exclusively on serving business clients. For approximately three years prior to my initial appointment, I was a small business owner, allowing me to walk in the shoes of the constituents served by DBPR. The resume attached includes several additional experiences and achievements that have prepared me to best serve the State of Florida in this role.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Florida Bar Member 0037841

Admitted to the US District Court Middle District of Florida

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Please consult resume attached.

D. Identify all association memberships and association offices held by you that relate to this appointment:

Please consult resume attached.

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
Tampa Bay Area Transit Authority (TBARTA), Policy Chair, Finance and Legislative Committee member	08/15/2017-10/25/2019		
City of Orlando Civil Service Board, Vice Chair,	2008-2010		

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: See attached sheet.

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

See attached sheet.

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date

Nature of Violation

Disposition

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐
If "Yes", list:

A. Title of Office: Florida Department of Business and Professional Regulation

B. Term of Appointment: January 1, 2022 - January 2, 2023

C. Confirmation results: Approved

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate

Original

Title & Number

Issue Date

Issuing Authority

Disciplinary Action/Date

FL Bar - 0037841

05-14-2007

Florida Bar

No Disciplinary

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business

Your Relationship to Business

Business' Relationship to Agency

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
See attached sheet.			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☒ No ☐

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Department of Business and Professional Regulation	Department of Business and Professional Regulation

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Jamal Allen Sowell,			
Will Weatherford,			
Benjamin John Gibson,			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Please consult resume attached.			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

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CERTIFICATION

STATE OF FLORIDA

COUNTY OF Leon

2023 MAR -6 PM 4:31

DIVISION OF ELECTIONS
TALLAHASSEE, FL

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

Melanie S. Griffin

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

Melanie S. Griffin

Signature of Applicant-Affiant

Sworn to and subscribed before me this 6th day of March, 2023.

Susan Kathleen Coggins Syfrett

Signature of Notary Public-State of Florida

Susan Kathleen Coggins Syfrett

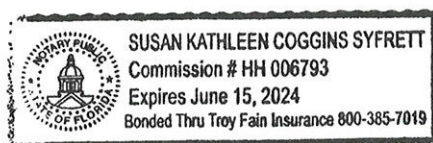
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: June 15, 2024

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)



MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ **Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.**

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

Senate Confirmation Questionnaire

Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250

The information from this page has been requested and will be used exclusively for Minority Statistics.
Please type or use blue ink.

1. Board of Interest: Secretary - Florida Business and Professional Regulation
2. Current Employer and Occupation: Department of Business and Professional Regulation
3. Are you applying for reappointment: Yes ☒ No ☐
4. *Do you have a disability? Yes ☐ No ☒ If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

5. *Sex: Male ☐ Female ☒
6. *Race: White ☒ African-American ☐
Hispanic-American ☐ Asian/Pacific Islander ☐
Native-American/Alaskan Native ☐
7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor. - No
8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor. - No

Melanie S. Griffin

Applicant's Name, including name commonly used
(Please print)

* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

19. B.

Given the length of time that has passed since serving on these boards, exact attendance records would need to be requested from these entities. Such records will be obtained upon request; in the meantime, the attendance requirements for both boards were fully satisfied.

25. B.

My husband, Michael E. Griffin, is the Tampa Market Leader for Savills, Inc. ("Savills"), a global real estate services provider. Per Section 34, Chapter 2021-37 Laws of Florida, all state agencies shall engage one of two real estate brokers under contract (Contract #:DMS 12/13-007B, as amended) with the Florida Department of Management Services ("DMS") for their real estate needs. In 2014, Savills (which acquired Vertical Integration, Inc., the original contract holder in 2015) became one of such two tenant brokers. During the last four years, Savills has successfully completed various real estate brokerage and consulting assignments for DBPR with the last assignment completed more than three and a half years ago. There are no active or pending projects between Savills and DBPR. Additional information regarding transactions in which Savills engaged on behalf of DBPR or other state agencies will be provided upon request.

During the last four years, local government contracts include Hillsborough County, Hillsborough Community College, St. Petersburg College, and Miami-Dade College. Additional information regarding transactions in which Savills engaged on behalf of local governments and state colleges will be provided upon request.

MELANIE S. GRIFFIN, ESQ.

4220 West Corona Street ■ Tampa, Florida 33629 ■

EXPERIENCE

Florida Department of Business and Professional Regulation

January 2022 – Present

Secretary

- Over 50% reduction of outstanding Professions license applications and processing times.
 - At the time of my appointment as DBPR Secretary in January 2022, the agency had over 20,000 Professions applications pending in its queue. During my tenure, that number has been reduced by over 58% (i.e., 20,952 applications in January 2022 versus 8,749 in December 2022). Additionally, application processing times were cut in half (i.e., processing average in January 2022 was 24.87 days and in December 2022 was 10.42). From implementing evening and weekend shifts, to reducing the Division of Service Operations vacancy rate, to reimagining internal business processes, and more, DBPR's achievements in 2022 made it easier and faster for Floridians to get to work.
 - Beyond these successes for DBPR's Professions licensees, we also eased the licensing process for all military spouses and veterans, implementing legislation and internal policies that now ensure applications submitted by those who have most meaningfully served our country are processed within 7 days.
- Over 60% reduction in call wait times.
 - Similar to the high volume of outstanding Professions applications in January 2022, the Department's call wait time was at an all-time, or near all-time, high of 55 to 60 minutes. As with the reduction in the number of Professions applications and the time to process same, today's average call wait time fluctuates between approximately 5 to 20 minutes, an over 60% reduction in hold time.
 - In fact, at least one recent day boasted call wait times of less than 1 minute.
- Taxpayer savings of more than \$12 million.
 - Beyond reducing the number of outstanding applications and the time to process same, fee holidays were implemented for several professions that resulted in more than \$12 million in savings to licensees.
- Reduced employee vacancy rate by nearly 14% in the first year of service.
 - In 2022, the Department leveraged private sector business practices to enhance its recruitment efforts, reduce vacancy rates and attrition, and speed up the time it takes to onboard new employees.
 - For example, in July 2022, DBPR hosted an extremely successful career fair attended by nearly 500 applicants, wherein almost 400 interviews were conducted on site and over 100 same-day contingent offers were extended.
 - As a result of this inaugural job fair and other refinements to how the agency markets its job openings and attracts talent, the Department's vacancy rate was reduced by nearly 14% (276.25 FTE vacancies in January compared to 236.25 following the career fair).
- Expanded social media footprint, including to help combat and prevent unlicensed activity.
 - Over the past year-plus, DBPR strategically invested in earned media through social media and other mediums to amplify the Department's message and tell the story of how falling victim to an unlicensed contractor puts your family, finances, and home at risk.
 - Through the Department's enforcement efforts, and in conjunction with Chief Financial Officer Patronis and local law enforcement agencies, the Department has successfully detected unlicensed contractors, stopped fraudulent behavior in our State, and prevented bad actors from taking advantage of Floridians, including our most vulnerable populations.
- Leader of the State's Mass Critical Care Response to Hurricanes Ian and Nicole.
 - The Department successfully led ESF-6 at the State's Emergency Operations Center, coordinating all mass care functions in response to Hurricanes Ian and Nicole, including all shelters, points of distribution, and feeding sites throughout the State.
 - DBPR also aided the Department of Economic Opportunity and Department of Children and Families in standing up and successfully operating Disaster Recovery Centers ("DRC") throughout multiple counties in the impacted areas, taking the lead or co-lead in the establishment of multiple DRC's. DBPR further staffed such centers throughout the months of October and part of November 2022, providing critical services and resources to Floridians in their most vulnerable time of need.
 - The agency further assisted ESF-18 with the State's response to the private business sector.

- Implementation of major technological advancements.

- During the 2022 regular legislative session, DBPR was appropriated over \$4 million to develop and implement a Customer Experience Modernization (CXM) Project, designed to make it even quicker and easier to apply for and receive licensure, as well as modernize additional aspects of the Customer Contact Center. The first part of such project was completed in November 2022.
- Beginning in the summer of 2022, DBPR also partnered with Florida Digital Service to modernize the Department's technology infrastructure and systems and move to cloud-based software. Such projects are actively in-progress

Shumaker, Loop & Kendrick, LLP

July 2019 – July 2022

Shumaker Advisors Florida

July 2019 – December 2021

Of Counsel Attorney; Senior Advisor, Business-to-Business Relationships

- Mastered the CARES Act, including the two main loans it addressed, the Paycheck Protection Program ("PPP") and the Economic Injury Disaster Loan ("EIDL"); co-presented webinars on the stimulus package, including to nationwide audiences and on behalf of The Florida Bar, with more than 2,800 people registered for the latter event.
- Authored articles with resources for small businesses and their employees; assisted with fundraisers for and promotions of local Tampa businesses, including Fox13 Tampa Bay Feature; completed multiple 11- and 13-hour shifts for 24/7 Coronavirus Hotline, helping dozens of callers navigate and find solutions to their Coronavirus challenges; hosted Unemployment 101 Webinar regarding Florida's application process.
- Advised clients regarding and litigated numerous business, governmental affairs, employment law and complex commercial litigation matters, including those involving trade secrets, non-competition, non-solicitation and confidentiality agreements, intellectual property, real estate, and a variety of additional contractual issues.
- Served as a part of the Business Development Committee for the Tampa Office, the largest law firm in Tampa Bay and an Am Law 200 Firm, a ranking of the 200 highest-grossing law firms in the United States.

Spread Your Sunshine, LLC

July 2019 – Present

Founder/Owner

- Founded and operated for-profit business with multiple employees that provides speaking and professional training services and designed, manufactured and sold inspirational products, including at national industry shows.
- Sought-after keynote speaker, webinar presenter, and podcast host and guest who has addressed thousands of audience members, including nationally and internationally at: Fortune 500 companies; Am Law 200 law firms; one of The Big Four accounting firms; ALFA International Client Seminar; Best Buddies International; Water & Wastewater Equipment, Treatment & Transport Show; US/Canada KNOW Women Summit; Women Empower X Los Angeles and Virtual International; Delta Zeta Sorority National Convention; American Bar Association; National Court Reporters Association; New York City Bar Association; Women's Conference of Florida; Florida Association for Women Lawyers and several of its Chapters; The Florida Bar and several of its Sections, Divisions, Committees, and County Bar Associations; Paralegal Association of Florida, Inc.; multiple universities, including their Colleges of Business, Schools of Law, and Sports Teams; multiple Podcasts, Vlogcasts, and Social Media Shows; Tri-City Alumnae Panhellenic Association; Greater Orlando Builders Association; Working Women of Tampa Bay; multiple Florida Chapters of the Society for Human Resource Management, Junior League, and Inn of Court; Tampa Bay Chapters of the Association of Fundraising Professionals, Association for Corporate Counsel, and American Planning Association; Tampa Bay Chamber of Commerce; Pinellas County District of the Future Business Leaders of America; Lakeland Chapter of Girls, Inc.; and more.
- Hosted successful Blog featuring multiple resources and articles to help small businesses, entrepreneurs, and additional professionals and students.

Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.

May 2006 – August 2006 (Law Clerk)

Equity Shareholder, Tampa Office Managing Partner (2014-19)

April 2007 – July 2019 (Attorney)

- Founded, managed and grew the firm's Tampa Office from the ground up as the sole Shareholder in such location for more than five years, including recruiting and overseeing all talent, attracting clients to work with the Office, developing nearly all work completed by the Office's employees, liaising with the firm's Board on behalf of the Office, processing the Office's billing, managing its budget, evaluating employee performance, cultivating positive employee morale, mentoring new associates, and completing all additional administrative tasks and substantive work generated by the Office.
- Successfully litigated numerous matters involving complex commercial litigation in state, federal and administrative courts, including first-chairing trials in the Complex Business Litigation Court (obtained six-figure

judgments and injunctive relief), first-chairing an administrative appeal before the Florida Department of Economic Opportunity, second-chairing a weeklong trial before Florida's Division of Administrative Hearings (significant Recommended Order entered in client's favor), and arguing multiple motion and evidentiary hearings, primarily in the Complex Business Litigation Court and Middle District of Florida Federal Court, including obtaining multiple rarely-granted preliminary injunctions, such as an injunction preventing the sale of commercial property valued at \$27 million and two injunctions preventing the use of highly-valuable intellectual property, protecting the clients from significant lost profits.

- Provided effective trust and probate litigation counsel to multiple prominent Florida families named in disputes each valued at several million dollars, negotiating favorable settlements in the best interests of the clients.
- Served as local counsel for several large corporate clients, advising on and litigating employment law and contract matters, serving as a trusted advisor, and strategizing best business practices and leadership strategies.
- Participated in activities furthering the legal profession, including creating *The Business Case for Mentoring* presentation and accompanying in-depth article first presented at the ALFA International Client Seminar and then to several additional organizations; keynoting the 2018 American Bar Association ("ABA") Tort Trial & Insurance Practice Group's ("TIPS") Fall Leadership Fellows Meeting, 2018 FAWL Annual Summit, and 2019 ABA TIPS Section Conference; and assisting with the launch of Nora Riva Bergman's book *50 Lessons for Women Lawyers from Women Lawyers* at the New York City Bar Association, including authoring *Dream Beyond Perfection!*, published as Lesson #20.

PROFESSIONAL AWARDS & HONORS

- Preeminent AV Rating, Martindale-Hubbell, 2010 – Present
- *City & State*, Florida Construction Power 100 (#7, 2023)
- *Best Lawyers in America*, Commercial Litigation, 2017-2022
- *City & State*, Florida Women Power 100 (#46, 2022)
- Florida State University Graduation Commencement Speaker, Summer 2022
- *Super Lawyers*, Commercial Litigation, 2021; Rising Stars, Commercial Litigation, 2010–20
- Legal Elite, *Florida Trend*, Commercial Litigation, 2021, 2015-18; Up & Comer, 2010-14
- Alumni Association Service Award, Florida State University College of Law, 2020
- Mentor of the Year Award, The Florida Bar Solo & Small Firm Section, 2019
- *KNOW Tampa* Feature, 2018; *The Best of KNOW* Feature, 2019
- Outstanding Woman Lawyer of Achievement Award, The Florida Bar Young Lawyers Division, 2018
- *Attorney Succeeds by Spreading Her Sunshine* Year-End Feature Article, *Tampa Bay Times*, 2017
- *No More What Ifs*, Giving Issue Feature Article, *Business Observer*, 2017
- The Inspire Award, Florida State University Alumni Association, 2017
- Recent Alumni Achievement Award, Florida State University College of Business, 2017
- Woman of Promise Award, Girl Scouts of West Central Florida, 2017
- Inspiring Woman in Business, *Tampa Bay Metro*, 2016-17
- Notable 'Nole (Inaugural Class), Florida State University Alumni Association, 2016
- Alumni of the Month, Tampa Bay Seminole Club, 2016, 2020
- Business Woman of the Year Angie Joseph Excellence in Mentorship Award & Legal Services Finalist, *Tampa Bay Business Journal*, 2016
- Up & Comer Award, *Tampa Bay Business Journal*, 2015
- Featured Cover Story, Florida State University College of Law Biannual Alumni Magazine, Fall 2013
- 40 Under 40 Award, *Orlando Business Journal*, 2011
- Most Productive Board Member Award, The Florida Bar Young Lawyers Division, 2011
- Leader in the Law Award, Florida Association for Women Lawyers, 2010
- Most Productive Young Lawyer Award, The Florida Bar Young Lawyers Division, 2009

PROFESSIONAL LEADERSHIP & MEMBERSHIP

- The Florida Bar Young Lawyers Division Board of Governors, 2009-14
 - President, One of the Largest Young Lawyer Divisions in the US with 25K+ Members, 2013-14
- Central Florida Association for Women Lawyers, 2007 – Present
 - President, Then the Largest Women Lawyers Organization in FL with 500+ Members, 2011-12
 - State Chapter of the Year Award Bestowed to CFAWL at Conclusion of Presidency, 2012

- Hillsborough Association for Women Lawyers, 2014 - Present
 - Executive Board of Directors: President, 2021-22; President-Elect, 2020-21; Vice President of Programs, 2019-20; Treasurer, 2018-19; Director-at-Large, 2015-18
 - State Chapter of the Year Award Bestowed to HAWL at Conclusion of Presidency, 2022
- Florida Association for Women Lawyers, 2007 – Present
 - Board of Directors, 2016-17
- Hillsborough County Bar Association, 2014 – Present
 - Mentor, Mentoring Program, 2021-22
 - Trial & Litigation Section Executive Board, 2016-19
 - Programs Chair, 2015-16
- Orange County Bar Association, 2007-19
 - Young Lawyers Section Executive Board, 2008-14
- Board of Governors, Florida State University College of Business, 2022 – Present
- JD Advisor, Florida State University College of Law, 2019 – Present
- Board of Visitors, Florida State University College of Law, 2018 – Present
- Guest Lecturer, Florida State University College of Business, 2021-23
 - Guest Speaker, Inaugural Summit for the Advancement of Women in Business, 2021
- Guest Lecturer, Florida State University College of Law, 2017-19
- The Florida Bar Annual Convention Chair, 2017; Co-Chair, 2016
- The Florida Bar Leadership Academy Committee, 2014-18
 - Vice Chair, 2015-18
- Florida Supreme Court Historical Society, 2013-19
- Florida Supreme Court Commission on Professionalism, 2012-15
- The Florida Bar Foundation, Fellow, 2010 – Present
 - *Tampa Bay Times* Op Ed, “Investing in Civil Legal Aid Pays Off,” 2017
- Board of Visitors, Florida Agricultural & Mechanical University College of Law, 2008-12
 - Mentoring Committee Chair, 2011-12

CIVIC LEADERSHIP & MEMBERSHIP

- Women for Florida State University, 2016 – Present
 - Tampa Chapter Leadership Team
- Tampa Bay Chamber of Commerce, 2014 – Present
 - Leadership Tampa, 2015-16 Class; Leadership Tampa Alumni, 2016 - Present
 - Emerge Protégé Mentor, 2014-18
- FSU Student Affairs Development Council f/k/a Torchbearers Board of Directors, 2010 – Present
- Annual Fund Class Agent, Florida State University College of Law, 2007 – Present
- Burning Spear, Inc., 2001 – Present
 - Corporate Board Chairwoman, 2017-21
 - Student President, 2004-05
- American Heart Association, 2022 Tampa Bay Heart Ball Co-Chair, 2021-22
- Working Women of Tampa Bay, 2015-21
 - Gratitude Celebration Panelist, 2019
 - Women with Impact Summit Panelist, 2018
 - Statewide Conference Speaker, 2017
- Tampa Bay Area Regional Transit Authority (“TBARTA”), 2017-19
 - Policy Committee, Chair, 2017-19
 - Finance Committee, 2017-19
 - Legislative Committee, 2018-19
- University of South Florida Women in Leadership & Philanthropy, 2013-19
 - American Marketing Association Keynote & Mentor Roundtable Featured Woman Leader, 2019
 - Leadership & Civic Engagement Leadership Series Keynotes, 2018-20
 - Mentoring Committee, 2014-17
- John Germany Young Readers “Read to Dream” Initiative Program Volunteer, 2016-2018
- Guest Leader, Florida State University LeaderShape Institute, 2017
- Featured Alumni, FSU Service Scholar 20-Year Reunion Celebration Roundtable Conversations, 2017
- Girl Scouts of West Central Florida Camp CEO Mentor, 2017
- Class of 2006 10-Year Reunion Chair, Florida State University College of Law, 2016

- Poynter Institute Community Outreach Board, 2015-16
- Frameworks of Tampa Bay Board of Directors, 2014-16
 - Board of Directors Vice Chair, 2015-16
 - Community Outreach & Development Committee Chair, 2015-16
- Class of 1999 10-Year Reunion Co-Chair, 20-Year Reunion Chair, Manatee High School, 2009, 2019
- ALS Association Orlando Walk to Defeat ALS Chair, 2009-10; Co-Chair, 2008-09
 - Highest Fundraising & Walker Recruitment in the History of ALS Florida Walks
- Steven G. Guy Foundation - Inaugural Board of Directors
 - Treasurer, 2008-10
- City of Orlando Civil Service Board, Vice Chair, 2008-10
- Leadership Orlando, Class 76, 2008-09
- Junior League of Greater Orlando, 2007-11
 - Girls Advocacy Program Volunteer at the Orange Regional Juvenile Detention Center
- Tri-for-Guy, FSU College of Law Triathlon Team, Raised Over \$100,000 for ALS, 2007-09
- Orange County Regional History Center Young Professionals Advisory Board, 2007-09
 - Vice President of Philanthropy
- Great American Teach-In Volunteer, Multiple Years During Professional Career

EDUCATION

Florida State University College of Law, Tallahassee, FL 82.9216/100 GPA
Juris Doctor, December 2006

Florida State University College of Business, Tallahassee, FL 3.91/4.00 GPA
Master of Business Administration, December 2006 *Summa Cum Laude*

J.D./M.B.A. HONORS, ACTIVITIES AND ADDITIONAL WORK EXPERIENCE

- Moot Court – Intramural Competition Director; 2005 & 2006 Federal Securities Litigation Competition; 2005 Workers' Compensation Competition; Order of the Barristers
- Business Review - Editor-in-Chief
- Journal of Land Use & Environmental Law – Executive Editor; Published Book Review
- Journal of Transnational Law & Policy – Article & Notes Editor; Outstanding Editor Award
- Book Awards (Highest Grade in Class) – Legal Writing & Research II; Federal Securities Litigation Seminar
- Dept. of Business & Professional Regulation (Law Clerk), May – September 2004 & August 2006 – March 2007
Drafted legal memoranda for district courts of appeal, agency opinions, and documents related to the Department's rule-making authority; completed legal research and analysis of the Florida Statutes; prepared appellate records.
- Stiles, Taylor & Grace, P.A. (Law Clerk), August 2005 – May 2006
Learned workers' compensation law and defense; assisted in all aspects of administrative hearings, judicial proceedings, rule challenges and lobbying.
- US Staffing/US Labor, Inc., Consultant (M.B.A. Summer Externship), May – August 2005
Created national marketing materials; analyzed company procedures from inception to signing major clients; produced flow charts of standard operating procedures; interviewed multiple levels of management.
- Florida House of Representatives (Speaker's House Fellowship), September 2004 – May 2005
Researched and drafted proposed legislation and amendments and drafted memorandums analyzing the legal implications of legislation pending before the Business Regulation Committee.

Florida State University, Tallahassee, FL
Bachelor of Science, Finance, May 2003

3.732/4.00 GPA
Academic Honors Program, *Magna Cum Laude*

UNDERGRADUATE HONORS, ACTIVITIES AND WORK EXPERIENCE

- FSU Hall of Fame – One of five seniors inducted in 2003
- 2003 College of Business Humanitarian of the Year after service as a Service Scholar from 1999-2003
- Student Government – Student Body Treasurer; Senate Majority Leader
- Delta Zeta Sorority – President; Recipient of National Awards and Scholarships
- TechSource International, Inc. (Summer Internship), May – August 2003
- British Parliament (Internship – Research Assistant to M.P. Jim Knight), January – May 2003
- Executive Office of the Governor (Staff Assistant to the Lt. Governor), September 2001 – December 2002
- Florida House of Representatives (Intern/Committee Staff), September 1999 – May 2000

BEYOND THE PROFESSION

Native Floridian; Wife of 14 years to Mike Griffin, Mom to 5-year-old son Maverick, and Best Friend to Golden Labrador Molly, an early retiree from Southeastern Guide Dogs; Diehard FSU Seminole, especially during college football; Honorary USF Bull through marriage; Former Marathon Runner; 10K Steps/Day Walker; Powered by Diet Coke; Hallmark Movie Channel's #1 Fan; Loves laughter, positivity, Florida sunshine and our State's beautiful beaches.

The Florida Senate
COMMITTEE NOTICE OF HEARING

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Melanie Griffin
Appointee Name

Department of Business & Professional Regulation
Board Name

NOTICE OF HEARING

TO: Ms. Griffin
Appointee Title and Name

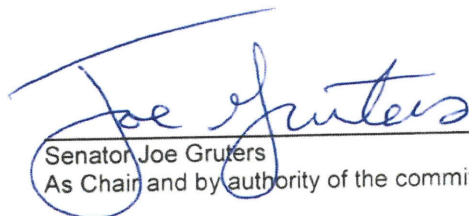
YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida

Senate will conduct a hearing on your executive appointment on Wednesday, March 29, 2023 in the James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building, commencing at 12:00 pm noon, pursuant to Rule 12 of the Rules of the Florida Senate.

Please be present at the time of the hearing.

DATED this the 24th day of March, 2023.

Committee on Regulated Industries



Senator Joe Gruters
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries
Office of the Sergeant at Arms

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

Reconfirmation

Bill Number or Topic

Amendment Barcode (if applicable)

3/29/2023

Meeting Date

Regulated Industries

Committee

Name

Melanie S. Griffin

Phone

(850) 491-5705

Address

2601 Blair Stone Road

Street

Tallahassee

City

FL

State

32399

Zip

Email

Melanie.griffin@myfloridalicense.com

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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: SB 1488

INTRODUCER: Senator Garcia

SUBJECT: Lottery Retailer Compensation

DATE: March 28, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 1488 establishes in Florida law the commission rate payable to retailers for lottery ticket sales in Florida law at six percent of the purchase price of each ticket that is sold or issued as a prize by a retailer.

For the current Fiscal Year 2022-2023 ending June 30, 2023, the lottery retailer commission rate for ticket sales was set at 5.75 percent, pursuant to Chapter 2022-157, ss. 57-58, Laws of Florida implementing the General Appropriations Act. Should the proposed six percent rate in the bill not be adopted, the lottery retailer commission rate for ticket sales will revert on July 1, 2023 to a rate determined by the Department of the Lottery (department) under its authority to regulate “the manner and amount of retailer compensation,” with no specified commission rate stated in Florida law and no limitation on other retailer compensation that may be paid.

Florida Administrative Code Rule 53ER22-30, Retailer Compensation, has been adopted by the department to implement this provision and sets the commission rate at 5.75 percent.

See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Department of the Lottery

Operations

Section 15 of Article X of the State Constitution authorizes state-operated lotteries. Pursuant to this provision, the Florida Public Education Lottery Act¹ establishes a state lottery system intended primarily to generate revenue for public education of the state.² The department is charged with supervising and operating the lottery in accordance with the provisions of the Florida Public Education Lottery Act and rules adopted pursuant thereto.³

Section 24.102(2), F.S., provides the intent of the Legislature that:

- The net proceeds of lottery games must be used to support improvements in public education;
- Lottery operations must be undertaken as an entrepreneurial business enterprise; and
- The department must be accountable through audits, financial disclosure, open meetings, and public records laws.

Lottery Revenues Attributable to Lottery Tickets

The department operates the Florida Lottery to maximize revenues “consonant with the dignity of the state and the welfare of its citizens”⁴ for the benefit of public education.⁵

According to the Legislature’s Office of Economic and Demographic Research (EDR),⁶ lottery tickets sale amounts per person have increased dramatically, with a remarkable \$527.20 level in Fiscal Year 2021-2022.⁷

Lottery ticket sales have been increasing year-over-year. On February 21, 2023, the Revenue Estimating Conference reviewed lottery ticket sales and transfers occurring since the last conference in July 2022, and found that ticket sales for this 30-week period were \$630.7 million (12.5%) over the prior estimate, with transfers from ticket sales to the Educational Enhancement Trust Fund (EETF) of \$195.3 million (18.4%) above the prior estimate.⁸

¹ Sections 24.101 to 24.124, F.S.

² Section 24.102, F.S.

³ Section 24.105(2), F.S.

⁴ See s. 24.104, F.S.

⁵ See s. 24.121(2), F.S.

⁶ EDR is a research arm of the Legislature that forecasts economic and social trends that affect policy making, revenues, and appropriations and provides objective information to committee staffs and members of the Legislature in support of the policy-making process. See <http://www.edr.state.fl.us/Content/about/index.cfm> (last visited Mar. 21, 2023).

⁷ See EDR publication *Florida Gaming and the Lottery: Economics, Status and Impact*, Feb. 7, 2023 at http://www.edr.state.fl.us/Content/prat_19esentations/gaming/GamingandLottery_2-7-23.pdf (last visited Mar. 21, 2023).

⁸ Also noted was the fact that some draw games (tickets printed using the department’s gaming system for drawings at specified times) have experienced abnormally large jackpots that significantly impacted ticket sales of those games. See Executive Summary of the Revenue Estimating Conference (Lottery Revenues) (Feb. 21, 2023) at <http://www.edr.state.fl.us/Content/conferences/lottery/lotterysummary.pdf> (last visited Mar. 21, 2023).

Lottery Retailer Contracts and Compensation

The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.⁹ According to the Revenue Estimating Conference:

The Lottery currently contracts with over 13,400 retailers around the state to sell draw and scratch-off tickets. Retailers receive a flat 5.75% commission on all sales. There is no cap on the amount of sales commission a retailer can receive – the more a retailer sells, the more the retailer receives in commissions.¹⁰

The Revenue Estimating Conference determined that the increase in the retailer commission rate under the bill reduces the department's transfer to the Educational Enhancement Trust Fund from lottery ticket sales, by \$37.1 million for Fiscal Year 2023-2024.¹¹

For Fiscal Year 2022-2023 ending June 30, 2023, the lottery retailer commission rate for ticket sales was set at 5.75 percent for that fiscal year only, pursuant to Chapter 2022-157, ss. 57-58, Laws of Florida implementing the General Appropriations Act,¹² which eliminated the one percent cashing bonus to retailers for redeeming winning tickets in amounts less than \$600, and limited additional retailer compensation to the Florida Lottery Retailer Bonus Commission Program.¹³ Prior to Fiscal Year 2022-2023, retailers received commissions of five percent of the ticket price, and the one percent cashing bonus.¹⁴

The department selects retailers based on financial responsibility, integrity, reputation, accessibility, convenience, security of the location, and estimated sales volume, with special consideration for small businesses.¹⁵ Retailers must be at least 18 years old, and the sale of lottery tickets must occur as part of an ongoing retail business. Contracting with a retailer with a felony conviction or plea within the last 10 years is prohibited,¹⁶ and the authority to act as a retailer may not be transferred.¹⁷

⁹ See s. 24.105(16), F.S.

¹⁰ See http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/_pdf/impact0317.pdf at 252 (last visited Mar. 21, 2023).

¹¹ See the analysis of the bill made at the Impact Conference conducted Mar. 17, 2023, adopting the middle scenario for the increase in retailer commissions and a 0/negative indeterminate impact for the removal of the restriction on other types of retailer compensation, at http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/_pdf/impact0317.pdf at 252-255 (last visited Mar. 21, 2023).

¹² See ch. 2022-157, s. 58, Laws of Florida and s. 24.105(9)(i), F.S.

¹³ The bonus commission program was funded by Specific Appropriation 2759U of the General Appropriations Act, in the amount of \$2,325,000.

¹⁴ See Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Review of the Florida Lottery, 2022*, Report No. 23-02, (Jan. 2023), available at <https://oppaga.fl.gov/Documents/Reports/23-02.pdf>, at 1 (last visited Mar. 21, 2023).

¹⁵ See s. 24.112(2), F.S., which also includes a statement of legislative intent that retailer selections be based on business considerations and public convenience, without regard to political affiliation.

¹⁶ See s. 24.112(3)(c), F.S. There is an exception to this prohibition, when the department determines that the person has been pardoned or has had his or her civil rights restored, he or she has engaged in lawful commerce and maintained good integrity and citizenship within the community, or the person in question has terminated his or her relationship with the retailer.

¹⁷ See s. 24.112(4), F.S.

Retailers may not extend credit or lend money to a person to purchase a lottery ticket. The use of a credit or charge card or other instrument issued by a bank, savings association, credit union, charge card company, or by a retailer (for installment sales of goods) is allowed, if the lottery ticket purchase is part of a purchase transaction for other goods and services that cost \$20 or more.¹⁸

The department may establish by rule, a system to verify and pay winning lottery tickets:¹⁹

- Any lottery retailer, as well as any department office, may redeem a winning ticket valued at less than \$600.²⁰ Payments less than \$50 are generally paid by a retailer in cash, depending on store policy or local ordinance. Higher amounts may be paid by cash, check, or money order at no cost to the winner.
- Only a department office may redeem a winning ticket valued at \$600 or more.²¹ Winning tickets are paid at the claimant's option in a combination of cash, check, or lottery tickets (with a limitation of \$200 payable in cash).

Prizes must be claimed within certain time limits, depending on the type of game played. Instant lottery tickets (e.g., scratch-off tickets), must be redeemed within 60 days after the end of that lottery game.²² Other lottery tickets (e.g., tickets for drawings) must be redeemed within 180 days after the winning drawing.

The department may adopt rules governing the types of lottery games to be conducted,²³ including lottery terminals or devices that “may be operated solely by the player without the assistance of the retailer.”²⁴

The department promotes responsible lottery ticket play and directs persons struggling with a gambling problem to contact the 1-888-ADMIT-IT telephone line for assistance.²⁵

¹⁸ See s. 24.118(1), F.S.

¹⁹ See s. 24.115, F.S., and Fla. Admin. Code R. 53ER23-8.

²⁰ *Id.* The winner has the option of presenting a winning ticket in person to any lottery retailer, any of the nine lottery district offices, or to lottery headquarters in Tallahassee.

²¹ *Id.* Mega Millions® and Powerball® prizes up to \$1 million may be claimed at any lottery district office. All other prizes greater than \$250,000 must be claimed at lottery headquarters.

²² See s. 24.115(1)(f), F.S.

²³ See s. 24.105(9)(a), F.S.

²⁴ Prior to 1996, there was no provision for player-activated lottery terminals or devices. Section 4 of ch. 96-341, Laws of Fla., authorized such machines, subject to restrictions that they be: (1) designed solely for dispensing of instant lottery tickets; (2) activated by coin or currency; (3) in the direct line of sight of on-duty retail employees; (4) capable of being electronically deactivated for 5 minutes or more; and (5) incapable of redeeming winning tickets, though they may dispense change. Chapter 2012-130, Laws of Fla., moved the restrictions on player-activated machines from s. 24.105(9)(a)4., F.S., to s. 24.112(15), F.S. As amended, the law (1) authorizes lottery vending machines to dispense “online lottery tickets, instant lottery tickets, or both,” and (2) prohibits use of mechanical reels or video depictions of slot machine or casino game themes or titles (but does not prohibit use of casino game themes or titles on lottery tickets, signage, or advertising displays on the vending machines).

²⁵ See <http://www.flalottery.com/playResponsibly> (last visited Mar. 21, 2023).

III. Effect of Proposed Changes:

SB 1488 establishes in Florida law the commission rate payable to retailers for lottery ticket sales in Florida law at six percent of the purchase price of each ticket that is sold or issued as a prize by a retailer.

For the current Fiscal Year 2022-2023 ending June 30, 2023, the lottery retailer commission rate for ticket sales was set at 5.75 percent, pursuant to Chapter 2022-157, ss. 57-58, Laws of Florida implementing the General Appropriations Act. The department implemented the increase in its administrative rules.²⁶ Should the proposed six percent rate in the bill not be adopted, the lottery retailer commission rate for ticket sales will revert on July 1, 2023 to a rate determined by the department under its authority to regulate “the manner and amount of retailer compensation,” with no specified commission rate stated in Florida law and no limitation on other retailer compensation that may be paid.

Prior to July 1, 2022, lottery retailers were compensated with a commission rate of five percent, and a one percent cashing bonus amount for paying player prizes of amounts less than \$600. Should the commission rate not be increased to six percent, the department indicates it will undertake rulemaking to restore the previous five percent retailer commission rate and the one percent cashing bonus commission, to re-establish the blended commission rate of 5.6 percent that existed prior to July 1, 2022.²⁷

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁶ See Fla. Admin. Code R. 53ER22-30, which set the commission rate at 5.75% and eliminated payment of a one percent cashing bonus amount for paying player prizes of amounts less than \$600.

²⁷ See Department of the Lottery, *2023 Agency Legislative Bill Analysis for SB 1488* at 3 (Mar. 16, 2023) (on file with the Senate Committee on Regulated Industries).

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill sets the commission payable to retailers for lottery ticket sales in Florida law at a rate of six percent of the purchase price of each ticket that is sold or issued as a prize by a retailer. The bill increases this commission rate to six percent from the one-year increase of 5.75 percent enacted for Fiscal Year 2022-2023 pursuant to legislation implementing the General Appropriations Act.

Should the proposed six percent rate in the bill not be adopted, the lottery retailer commission rate for ticket sales will revert on July 1, 2023 to a rate determined by the DOL under its authority to regulate “the manner and amount of retailer compensation,” with no specified commission rate stated in Florida law, possibly reducing the commission amounts payable to retailers in future years.

C. Government Sector Impact:

The Revenue Estimating Conference considered the impact of the bill on state revenues on March 17, 2023, finding that under the bill:

The limitation on other retailer compensation in current law is removed, thereby allowing the Lottery discretion to implement additional forms of retailer compensation such as the 1% cashing bonus commission which was in effect in FY 2021-22. The department has yet to make a determination on the additional 1% cashing bonus commission for FY 2023-24.

The retailer commission rate prior to FY 22-23 was 5%. Additionally, the retailers earned 1% cashing bonus commission for winning ticket payouts paid at location. The blended retailer commission rate for the base commission and the cashing bonus commission was 5.6%. For Fiscal Years 2023-24 and thereafter, the estimates adopted by the Revenue Estimating Conference assume a blended retailer commission rate of 5.6%.²⁸

²⁸ See http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/_pdf/impact0317.pdf at 252 (last visited Mar. 21, 2023).

The Revenue Estimating Conference adopted the following estimate for the increase in retailer commissions and a 0/negative indeterminate impact for the removal of the restriction on other types of retailer compensation.²⁹ It reduces the Department of Lottery transfer to the Educational Enhancement Trust Fund from lottery ticket sales.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2023-24	0.0	0.0	(37.1)	(37.1)	0.0	0.0	(37.1)	(37.1)
2024-25	0.0	0.0	(37.9)	(37.9)	0.0	0.0	(37.9)	(37.9)
2025-26	0.0	0.0	(38.3)	(38.3)	0.0	0.0	(38.3)	(38.3)
2026-27	0.0	0.0	(38.7)	(38.7)	0.0	0.0	(38.7)	(38.7)
2027-28	0.0	0.0	(39.0)	(39.0)	0.0	0.0	(39.0)	(39.0)

(In \$ millions)

In its analysis of the bill, the department states that the commission rate of five percent was adopted by rule in 1987 and remained unchanged until July 1, 2022 when it was increased by the Legislature for the Fiscal Year ending June 30, 2023, and that retailers also received a separate one percent cashing bonus commission until July 1, 2023.³⁰

Should the commission rate not be increased to six percent, the department indicates it will undertake rulemaking to restore the previous five percent commission rate and the one percent cashing bonus commission, to re-establish the blended commission rate of 5.6 percent that existed prior to July 1, 2022.³¹

The department states that at a six percent commission rate, Florida's rate for scratch off games would be comparable to that of nine states, (and lower than nine states); for draw games, a six percent commission rate in Florida would be comparable to that of 10 states (and lower than seven states).³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 24.105 of the Florida Statutes.

This bill repeals section 58 of chapter 2022-157, Laws of Florida.

²⁹ See <http://www.edr.state.fl.us/Content/conferences/revenueimpact/archives/2023/pdf/impact0317.pdf> at 253 (last visited Mar. 21, 2023).

³⁰ See Department of the Lottery, *2023 Agency Legislative Bill Analysis for SB 1488* at 2 (Mar. 16, 2023) (on file with the Senate Committee on Regulated Industries).

³¹ *Id.* at 3.

³² *Id.* at 4.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Garcia

36-01186A-23

20231488__

1 A bill to be entitled
 2 An act relating to lottery retailer compensation;
 3 amending s. 24.105, F.S.; requiring that specified
 4 compensation be paid to retailers for Florida Lottery
 5 ticket sales; deleting a limitation on additional
 6 retailer compensation; repealing s. 58, chapter 2022-
 7 157, Laws of Florida, relating to the future
 8 expiration of an amendment; providing effective dates.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (i) of subsection (9) of section
 13 24.105, Florida Statutes, is amended to read:
 14 24.105 Powers and duties of department.—The department
 15 shall:
 16 (9) Adopt rules governing the establishment and operation
 17 of the state lottery, including:
 18 (i) The manner and amount of compensation of retailers,
 19 provided, however, that except for the 2022-2023 fiscal year
 20 only, effective July 1, 2022, the commission for Florida Lottery
 21 ticket sales shall be 6 5.75 percent of the purchase price of
 22 each ticket sold or issued as a prize by a retailer. Any
 23 additional retailer compensation is limited to the Florida
 24 Lottery Retailer Bonus Commission program appropriated in
 25 Specific Appropriation 2759U of the 2022-2023 General
 26 Appropriations Act.
 27 Section 2. Effective upon this act becoming a law, section
 28 58 of chapter 2022-157, Laws of Florida, is repealed.
 29 Section 3. Except as otherwise expressly provided in this

Page 1 of 2

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

36-01186A-23

20231488__

30 act and except for this section, which shall take effect upon
 31 this act becoming a law, this act shall take effect July 1,
 32 2023.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 9, 2023

I respectfully request that **Senate Bill 1488**, relating to Lottery Retailer Compensation, be placed on the:

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

A handwritten signature in black ink, appearing to read "Neana Garcia", is written over a horizontal line.

Senator Neana Garcia
Florida Senate, District 36



2023 AGENCY LEGISLATIVE BILL ANALYSIS

Department of the Lottery

BILL INFORMATION

BILL NUMBER:	SB 1488
BILL TITLE:	Lottery Retailer Compensation
BILL SPONSOR:	Sen. Garcia
EFFECTIVE DATE:	July 1, 2023

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE

Regulated Industries

SIMILAR BILLS

BILL NUMBER:	HB 715
SPONSOR:	Mooney, Jr.

PREVIOUS LEGISLATION

BILL NUMBER:	SB 354; HB 5003
SPONSOR:	Rodriguez; Appropriations Committee
YEAR:	2022; 2022
LAST ACTION:	Died in Regulated Industries; Signed into law, Ch. 2022-157, Laws of Florida (HB 5003)

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	March 16, 2023
LEAD AGENCY ANALYST:	Reginald D. Dixon, Chief of Staff
ADDITIONAL ANALYST(S):	Justin Rock, Deputy Secretary of Product & Sales
LEGAL ANALYST:	Dane Dunson, General Counsel

FISCAL ANALYST:

Becky Ajhar, Chief Financial Officer

POLICY ANALYSIS**1. EXECUTIVE SUMMARY**

The bill amends section (s.) 24.105, Florida Statutes (F.S.), to set the commission for lottery ticket sales at 6% of the purchase price of each ticket sold or issued as a prize by a retailer. The bill also repeals section 58 of Chapter 2022-157, Laws of Florida, effective upon the act becoming law.

2. SUBSTANTIVE BILL ANALYSIS**1. PRESENT SITUATION:****The Florida Lottery**Budget

Since establishment in 1988, the Department of the Lottery (Lottery or department) has been a revenue generating department with statutory missions of generating revenue for education and operating as much as possible like a business enterprise. The Lottery is self-funded by ticket sales and does not receive general revenue from the State of Florida. Funds from ticket sales are placed in the Operating Trust Fund (OTF), and after the Lottery pays for administrative and other costs, including commissions paid to retailers, the remaining funds are deposited into the Educational Enhancement Trust Fund (EETF) monthly. The Lottery is appropriated budget authority for operations from the OTF in the General Appropriations Act (GAA).

The Lottery has transferred over \$43 billion dollars to the EETF since 1988.

Retailers

The Lottery contracts with retailers across the state to sell tickets. The Lottery partners with over 13,400 retailers to sell terminal (draw) and instant (scratch-off) tickets. Retailers are also authorized under s. 24.115(1)(e), F.S., to pay prizes less than \$600 to winners at their retail location.

Lottery retailers receive support from the Lottery in the following ways, at no cost to the retailer:

- In-store full service from a Lottery Sales Representative.
- Point-of-sale material.
- Ongoing training.
- In-store promotional opportunities.
- A dedicated Retailer Hotline for quick assistance.

In addition, Lottery equipment, including their terminal (which is connected to the Lottery's gaming system), ticket dispensers, and if the retailer has one, a full-service vending machine, are provided to the retailer at no cost.

Retailer CommissionsHistory

Historically, s. 24.105(9)(i), F.S., allowed for the Lottery to adopt rules to decide the manner and amount of compensation to retailers. The 5% sales commission was established in 1987¹ and until July 1, 2022, remained at 5%. In addition, retailers historically also received a separate 1% cashing bonus commission for paying prizes of less than \$600.

Chapter 2022-157, Laws of Florida (LOF)

Section 57 of Chapter 2022-157, LOF (HB 5003) amended s. 24.105(9)(i), F.S., to require retailer commissions to be set at 5.75% for FY 2022-23:

¹ 53ER87-44

“The manner and amount of compensation of retailers, except for the 2022-2023 fiscal year only, effective July 1, 2022, the commission for Florida Lottery ticket sales shall be 5.75 percent of the purchase price of each ticket sold or issued as a prize by a retailer. Any additional retailer compensation is limited to the Florida Lottery Retailer Bonus Commission program appropriated in Specific Appropriation 2759U of the 2022-2023 General Appropriations Act.”²

The Lottery implemented this requirement on July 1, 2022,³ and retailers continue to receive a 5.75% commission on the sale of all scratch-off and draw game sales until June 30, 2023. The 1% cashing bonus commission was terminated due to the requirements of Chapter 2022-157, LOF.

After June 30, 2023, based on the February 2023 REC adopted projections, the sales commission percentage would revert back to the previous rate of 5% and the department would exercise its rulemaking authority to restore the 1% cashing bonus commission, thereby reestablishing the previous blended rate of 5.6%.

The department does not have data or documentation to indicate if the increased commission rate has directly resulted in increased sales at retail locations. However, sales and commissions paid to retailers have steadily increased in previous FYs even as Florida's commissions structure remained unchanged,⁴ as indicated on Page 4:

In addition, Lottery ticket sales have increased over the years, and as a result, commissions paid to retailers have increased significantly. Data on Page 4 indicates the increases from FY 2017-18 to FY 2021-22.

Fiscal Year	Ticket Sales (Millions \$)	Retailer Commissions (Millions \$)	Retailers Commissions as % of Ticket Sales
2017-18	6,700,811	373,819	5.58%
2018-19	7,151,236	398,162	5.57%
2019-20	7,505,112	420,843	5.61%
2020-21	9,076,219	509,861	5.62%
2021-22	9,324,628	523,132	5.61%

Florida Lottery Retailer Bonus Commission Program

Funded in the GAA,⁵ other examples of incentives for Lottery retailers⁶ include:

- Retailer incentives for selling jackpot-or top-prize-winning tickets:

FLORIDA LOTTO®	Starts at \$10,000 and increases by \$5,000 with each rollover for up to a maximum of \$100,000.
POWERBALL®	Starts at \$20,000 and increases by \$5,000 with each rollover for up to a maximum of \$100,000. If the jackpot-winning ticket includes Power Play, the retailer will earn an additional \$20,000.
MEGA MILLIONS®	Starts at \$20,000 and increases by \$5,000 with each rollover for up to a maximum of \$100,000. If the jackpot-winning ticket includes Megaplier, the retailer will earn an additional \$20,000.
JACKPOT TRIPLE PLAY™	\$1,000. If the jackpot-winning ticket sold at their store includes Combo, the retailer will earn an additional \$1,000.
CASH4LIFE®	\$10,000

² Section 57, Chapter 2022-157, LOF

³ 53ER22-30

⁴ Florida Lottery Comprehensive Annual Financial Report For the Fiscal Years Ended June 30, 2020, and 2019, Pg. 21; Florida Lottery Annual Comprehensive Financial Report For the Fiscal Years Ended June 30, 2022, and 2021, Pg. 21.

⁵ Specific Appropriation 2759U, Chapter 2022-156, LOF

⁶ “Retailer Bonus Commissions”

- Retailer incentives of \$1,000, for selling a \$1 million winning **POWERBALL** ticket (5-of-5 winning numbers).
- Retailer incentives of \$5,000, for selling a \$2-million-winning **POWERBALL with Power Play®** ticket (5-of-5 winning numbers).
- Retailer incentives of \$1,000, for selling a \$1 million winning **MEGA MILLIONS** ticket (5-of-5 winning numbers).
- Retailer incentives of \$5,000, for selling a winning **MEGA MILLIONS with Megaplier®** ticket (5-of-5 winning numbers).
- Retailer incentives of \$2,000, for selling a second prize winning **CASH4LIFE** ticket (5-of-5 winning numbers).
- Retailers who sell winning **Scratch-Off** tickets of \$1 million or more will receive an incentive amount of \$2,000 per \$1 million in prize money claimed.

Commissions in Other States

As previously referenced, the Lottery has an established blended 5.6% commission rate lottery retailers. The *LaFleur's 2021 World Lottery Almanac* does not have data for FY 2021-22 or FY 2022-23, but when compared to the most recent data available,⁷ the rate of 5.6% is above the average of 5.4% for scratch-off and comparable to the average of 5.62% for draw games.

At a 6% commission rate, Florida would be comparable to 9 states and lower than only 9 states for scratch-off and comparable to 10 states and lower than only 7 states for draw games.

State	Commissions Total Paid (Millions)	Scratch-Off Commission %	Draw Game Commission %
Oregon	\$35.10	8.00%	8.00%
Colorado	\$61.10	7.00%	6.00%
Maine	\$26.00	7.00%	5.00%
N. Carolina	\$262.60	7.00%	7.00%
S. Carolina	\$170.00	7.00%	7.00%
West Virginia	\$17.40	7.00%	7.00%
Arizona	\$98.30	6.50%	6.50%
Tennessee	\$136.00	6.50%	6.50%
Wisconsin	\$62.80	6.25%	5.50%
California	\$585.90	6.00%	6.00%
Georgia	\$342.90	6.00%	6.00%
Indiana	\$117.50	6.00%	6.00%
Michigan	\$370.90	6.00%	6.00%
Minnesota	\$53.70	6.00%	5.50%
Mississippi	\$60.60	6.00%	6.00%
New Mexico	\$10.10	6.00%	6.00%
New York	\$458.90	6.00%	6.00%
Oklahoma	\$22.20	6.00%	6.00%
Vermont	\$10.40	5.75%	5.75%-6%
Florida	\$509.90	5.60%	5.60%
Iowa	\$29.70	5.50%	5.50%
Maryland	\$197.20	5.50%	5.50%
Ohio	\$296.30	5.50%	5.50%

⁷ *LaFleur's 2021 World Lottery Almanac*

Arkansas	\$35.70	5.00%	5.00%
Connecticut	\$83.60	5.00%	5.00%
Delaware	\$15.10	5.00%	5.00%
D.C.	\$14.10	5.00%	5.00%
Idaho	\$21.90	5.00%	5.00%
Illinois	\$166.60	5.00%	5.00%
Kansas	\$19.20	5.00%	5.00%
Kentucky	\$90.60	5.00%	5.00%
Louisiana	\$35.40	5.00%	5.00%
Massachusetts	\$333.30	5.00%	5.00%
Missouri	\$106.50	5.00%	5.00%
Montana	\$7.50	5.00%	5.00%
Nebraska	\$13.50	5.00%	5.50%
N. Hampshire	\$32.10	5.00%	5.00%
New Jersey	\$214.30	5.00%	5.00%
Pennsylvania	\$306.70	5.00%	5.00%
Rhode Island	\$20.00	5.00%	8.00%
South Dakota	\$4.00	5.00%	5.00%
Texas	\$432.10	5.00%	5.00%
Virginia	\$139.30	5.00%	5.00%
Washington	\$47.80	5.00%	5.00%
North Dakota	\$1.50	0.00%	5.00%
Wyoming	\$2.00	0.00%	6.00%

The department is unaware if other state lotteries have changed their commission rates on or after July 1, 2022.

2. EFFECT OF THE BILL:

Section 1: Increases retailer commissions to 6% of the purchase price of each ticket sold or issued as a prize by a retailer and explicitly removes the provision limiting additional retailer compensation to the Florida Lottery Bonus Commission program.

Section 2: Repeals Section 58 of Chapter 2022-157, Laws of Florida, effective upon the bill becoming law.

The current retailer commission rate of 5.75% expires June 30, 2023. Upon expiration of the current 5.75% rate, the sales commission percentage would revert back to the previous rate of 5% and the department would exercise its rulemaking authority to restore the 1% cashing bonus commission, thereby reestablishing the previous blended rate of 5.6%.

Lottery projects increasing the retailer commission rate from the blended 5.6% to 6% will reduce EETF transfers by \$37.1 million for FY 2023-24. For future FYs and calculations, please see the Fiscal Analysis section.

Operationally, the Lottery would also be required to amend a current rule, retailer documentation, and website to account for the increased sales commissions. This can be accomplished with existing staff resources as the Lottery did so for FY 2022-23 when increasing the commission rate from 5% to 5.75%.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? YES

If yes, explain:	Rule change would be required to set the retailer commission rate.
What is the expected impact to the agency's core mission?	Reduction of transfers to EETF.

Rule(s) impacted (provide references to F.A.C., etc.):	53ER22-30 - Retailer Rules.
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4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Proponent - Florida Petroleum Marketers Association (FPMA), Florida Lottery retailers Opponents - Unknown
Provide a summary of the proponents' and opponents' positions:	FPMA supports the increase in commission on sales of Lottery tickets to 6%.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? NO

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

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? NO

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS**1. WHAT IS THE FISCAL IMPACT TO LOCAL GOVERNMENT? N/A**

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees?	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. WHAT IS THE FISCAL IMPACT TO STATE GOVERNMENT?

Revenues:	The amount of money the Lottery receives from retailers on ticket sales across the state determines the amount of funding the Lottery provides to the EETF. The projected total commissions paid to retailers for the current FY and future FYs is below (in millions \$) if sales commissions are set at 6% of sales and 5.6% for those same FYs for reference: All projected sales are from the February 2023 Revenue Estimating Conference. <table><tr><th>Fiscal Year</th><th>REC Projected Total Sales</th><th>5.60%</th><th>6.00%</th></tr><tr><td>2023-24</td><td>9,447.5</td><td>529.1</td><td>566.9</td></tr><tr><td>2024-25</td><td>9,492.2</td><td>531.6</td><td>569.5</td></tr><tr><td>2025-26</td><td>9,606.4</td><td>537.1</td><td>576.3</td></tr><tr><td>2026-27</td><td>9,707.7</td><td>543.6</td><td>582.5</td></tr><tr><td>2027-28</td><td>9,803.0</td><td>548.1</td><td>588.2</td></tr></table> To assess the impact to the EETF of the change, below is the difference between 5.6% to 6% (in millions \$) for each FY: <table><tr><th colspan="2">Impact to EETF</th></tr><tr><th>Fiscal Year</th><th>5.6% to 6%</th></tr><tr><td>2023-24</td><td>(37.1)</td></tr><tr><td>2024-25</td><td>(37.9)</td></tr><tr><td>2025-26</td><td>(38.3)</td></tr><tr><td>2026-27</td><td>(38.7)</td></tr><tr><td>2027-28</td><td>(39.0)</td></tr></table>	Fiscal Year	REC Projected Total Sales	5.60%	6.00%	2023-24	9,447.5	529.1	566.9	2024-25	9,492.2	531.6	569.5	2025-26	9,606.4	537.1	576.3	2026-27	9,707.7	543.6	582.5	2027-28	9,803.0	548.1	588.2	Impact to EETF		Fiscal Year	5.6% to 6%	2023-24	(37.1)	2024-25	(37.9)	2025-26	(38.3)	2026-27	(38.7)	2027-28	(39.0)
Fiscal Year	REC Projected Total Sales	5.60%	6.00%																																				
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2025-26	(38.3)																																						
2026-27	(38.7)																																						
2027-28	(39.0)																																						
Expenditures:	The non-operating transfer to EETF would be reduced as expenditures for retailer commissions increase.																																						
Does the legislation contain a State Government appropriation?	No																																						
If yes, was this appropriated last year?	N/A																																						

3. WHAT IS THE FISCAL IMPACT TO THE PRIVATE SECTOR?

Revenues:	With an increase in commissions, Lottery retailers collectively would receive the following additional revenues for the upcoming FYs (in millions) based upon the change from the blended rate of 5.6% to 6%:										
	<table><tr><th>2023-24</th><th>2024-25</th><th>2025-26</th><th>2026-27</th><th>2027-28</th></tr><tr><td>37.1</td><td>37.9</td><td>38.3</td><td>38.7</td><td>39.0</td></tr></table>	2023-24	2024-25	2025-26	2026-27	2027-28	37.1	37.9	38.3	38.7	39.0
	2023-24	2024-25	2025-26	2026-27	2027-28						
37.1	37.9	38.3	38.7	39.0							
The amount per individual retailer would be dependent on sales at the location.											

Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? NO

Does the bill increase taxes, fees or fines?	No
Does the bill decrease taxes, fees or fines?	No
What is the impact of the increase or decrease?	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

Does the legislation impact the agency's technology systems (i.e., IT support, licensing software, data storage, etc.)?	The Lottery's gaming system would need to be reconfigured to account for the increased commission percentage but can be accomplished with existing resources.
If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

FEDERAL IMPACT

Does the legislation have a federal impact (i.e., federal compliance, federal funding, federal agency involvement, etc.)?	No
If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

Establishing the commission rate by statute reduces the ability to be responsive to potential necessary changes in the industry. Previous statutory authority allowed for that flexibility, should it be required.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	
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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB-1488

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

3/29/23

Committee

Regulated Industries

Name

Ned Bowman

Phone

850-524 6609

Address

1983 Centre Point Blvd

Email

Ned@FPMA.ORG

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

FPMA



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/29/2023

Meeting Date

Regulated Industries

Committee

Name

JESSICA HUNTER

Phone

850-694-1216

Address

227 South Adams St.

Email

jessica@frf.org

Street

Tallahassee

FL

32301

City

State

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1488

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Retail Federation

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

03/29/23

Meeting Date

Regulated Industries

Committee

Name Ron Book

Address 104 West Jefferson Street

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1488

Bill Number or Topic

Amendment Barcode (if applicable)

Phone (850) 224-3427

Email ron@rlbookpa.com

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

7-11

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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: SB 1312

INTRODUCER: Senator Collins

SUBJECT: Regulatory Assessment Fees

DATE: March 30, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Schrader	Imhof	RI	Fav
2. _____	_____	RC	_____

I. Summary:

SB 1312 amends s. 120.80, F.S., to add to the list of rules which may be adopted by the Florida Public Service Commission that are not subject to Florida's statement of estimated regulatory costs requirements under s. 120.541, F.S. Specifically, rules regarding the Florida Public Service Regulatory Trust Fund¹ and the regulatory assessment fees charged to utilities in Florida² are added to the section.

II. Present Situation:

Florida Public Service Commission

The Florida Public Service Commission (PSC) is an arm of the legislative branch of government.³ The role of the PSC is to ensure Florida's consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.⁴ In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.⁵

¹ Enacted pursuant to s. 350.113, F.S., which is the fund used for the operation of the Public Service Commission.

² Enacted pursuant to ss. 364.336, 366.14, 367.145, and 368.109, F.S. Regulatory assessment fees are fees charged to regulated utilities by the Public Service Commission to fund the costs of regulation.

³ Section 350.001, F.S.

⁴ See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Mar 3, 2023).

⁵ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Mar 3, 2023).

Electric and Gas Utilities

The PSC monitors the safety and reliability of the electric power grid⁶ and may order the addition or repair of infrastructure as necessary.⁷ The PSC has broad jurisdiction over the rates and service of investor-owned electric and gas utilities.⁸ However, the PSC does not fully regulate municipal electric utilities (utilities owned or operated on behalf of a municipality) or rural electric cooperatives. The PSC does have jurisdiction over these types of utilities with regard to rate structure, territorial boundaries, bulk power supply operations, and planning.⁹ Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards. Rates and revenues for a cooperative utility are regulated by their governing body elected by the cooperative's membership.

Municipal Electric and Gas Utilities, and Special Gas Districts, in Florida

A municipal electric or gas utility is an electric or gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of electric and gas utility regulations for Florida. While ch. 366, F.S., does not provide a definition, per se, for a “municipal utility,” variations of this terminology and the concept of these types of utilities appear throughout the chapter. Currently, Florida has 33 municipal electric utilities that serve over 14 percent of the state's electric utility customers.¹⁰ Florida also has 27 municipally-owned gas utilities and four special gas districts.¹¹

Rural Electric Cooperatives in Florida

At present, Florida has 18 rural electric cooperatives, with 16 of these cooperatives being distribution cooperatives and two being generation and transmission cooperatives.¹² These cooperatives operate in 57 of Florida's 67 counties and have more than 2.7 million customers.¹³ Florida rural electric cooperatives serve a large percentage of area, but have a low customer density. Specifically, Florida cooperatives serve approximately 10 percent of Florida's total electric utility customers, but their service territory covers 60 percent of Florida's total land mass. Each cooperative is governed by a board of cooperative members elected by the cooperative's membership.¹⁴

⁶ Section 366.04(5) and (6), F.S.

⁷ Section 366.05(1) and (8), F.S.

⁸ Section 366.05, F.S.

⁹ Florida Public Service Commission, *About the PSC*, *supra* note 5.

¹⁰ Florida Municipal Electric Association, *About Us*, <https://www.flpublicpower.com/about-us> (last visited Mar. 17, 2023).

¹¹ Florida Public Service Commission, *2022 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2022 (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202022.pdf>). A “special gas district” is a dependent or independent special district, setup pursuant to ch. 189, F.S., to provide natural gas service. Section 189.012(6), F.S., defines a “special district” as “a unit of local government created for a special purpose, as opposed to a general purpose, which has jurisdiction to operate within a limited geographic boundary and is created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.”

¹² Florida Electric Cooperative Association, *Members*, <https://feca.com/members/> (last visited Mar 17, 2023).

¹³ Florida Electric Cooperative Association, *Our History*, <https://feca.com/our-history/> (last visited Mar 17, 2023).

¹⁴ *Id.*

Public Electric and Gas Utilities in Florida

There are four investor-owned electric utility companies (electric IOUs) in Florida: Florida Power & Light Company (FPL), Duke Energy Florida (Duke), Tampa Electric Company (TECO), and Florida Public Utilities Corporation (FPUC).¹⁵ In addition, there are eight investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, Florida Division of Chesapeake Utilities, FPUC, FPUC-Fort Meade Division, FPUC-Indiantown Division, Sebring Gas System, and St. Joe Natural Gas Company. Of these eight gas IOUs, five engage in the merchant function servicing residential, commercial, and industrial customers: Florida City Gas, FPUC, FPUC-Fort Meade Division, Peoples Gas System, and St. Joe Natural Gas Company. Florida Division of Chesapeake Utilities, FPUC-Indiantown Division, and Sebring Gas System are only engaged in firm transportation service.¹⁶

Electric IOU and Gas IOU rates and revenues are regulated by the PSC and the utilities must file periodic earnings reports, which allow the PSC to monitor earnings levels on an ongoing basis and adjust customer rates quickly if a company appears to be overearning.¹⁷

Section 366.041(2), F.S., requires public utilities to provide adequate service to customers. As compensation for fulfilling that obligation, s. 366.06, F.S., requires the PSC to allow the IOUs to recover honestly and prudently invested costs of providing service, including investments in infrastructure and operating expenses used to provide electric service.¹⁸

Water and Wastewater Utilities

Florida's Water and Wastewater System Regulatory Law, ch. 367, F.S., regulates water and wastewater systems in the state. Section 367.011, F.S., grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. For the chapter, a "utility" is defined as "a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." Section 367.022, F.S., exempts certain types of water and wastewater operations from PSC jurisdiction and the provisions of ch. 367, F.S. (except as expressly provided). Such exempt operations include: municipal water and wastewater systems, public lodging systems that only provide service to their guests, systems with a 100-person or less capacity, landlords that include service to their tenants without specific compensation for such service, and mobile home parks operating both as a mobile home park and a mobile home subdivision that provide "service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation."¹⁹ The PSC also does not regulate utilities that have exempted themselves from regulation pursuant to s. 367.171, F.S.

¹⁵ Florida Public Service Commission, *2022 Facts and Figures of the Florida Utility Industry*, *supra* note 11, at 5.

¹⁶ *Id.* Firm transportation service is offered to customers under schedules or contracts which anticipate no interruption under almost all operating conditions. See Firm transportation service, 18 CFR s. 284.7.

¹⁷ PSC, *2022 Annual Report*, p. 6, (available at: <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2022.pdf>) (last visited: Mar. 16, 2023).

¹⁸ *Id.*

¹⁹ Section 367.022(2), F.S.

Currently, the PSC has over 149 water, wastewater, and water and wastewater utilities that are under its regulatory authority.²⁰

Telecommunications Carriers

Under ch. 364, F.S., telecommunications carriers in Florida are also subject to only limited PSC regulation. During the 2011 legislative session, the “Regulatory Reform Act” (act) was passed and signed into law by the Governor, effective July 1, 2011.²¹ Under the act, the Legislature eliminated most of the PSC’s jurisdiction over telecommunications. However, the PSC still:

- Maintains the authority to ensure that incumbent local exchange carriers meet their obligation to provide unbundled access, interconnection, and resale to competitive local exchange companies in a nondiscriminatory manner;
- Administers the system to provide Telecommunications Relay Services; and
- Oversees the Federal Lifeline Assistance program for Florida.²²

Natural Gas Transmission

Natural gas transmission companies are regulated by the PSC under ch. 368, F.S. The term “natural gas transmission company,” as defined in s. 368.103, F.S., “means any person owning or operating for compensation facilities located wholly within this state for the transmission or delivery for sale of natural gas.” The term does not include “any person that owns or operates facilities primarily for the local distribution of natural gas or that is subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. ss. 717 et seq., or any municipalities or any agency thereof, or a special district created by special act to distribute natural gas.” Section 368.104, F.S., authorizes the PSC to “fix and regulate rates and services of natural gas transmission companies, including, without limitation, rules and regulations for:”

- Determining customers and services classifications;
- Determining rate applicability; and
- “Ensuring that the provision (including access to transmission) or abandonment of service by a natural gas transmission company is not unreasonably preferential, prejudicial, or unduly discriminatory.”

Section 368.105, F.S., provides the procedures for the PSC to set rates and services requirements for natural gas transmission companies in Florida.

Under chapter 368, F.S., the PSC is authorized to inspect intrastate natural gas systems to ensure compliance with rules and regulations regarding safety standards.²³ Currently, Florida has 3 major pipelines: Florida Gas Transmission Company, Gulfstream Natural Gas System, and Sabal Trail Interstate Pipeline. The state also has two minor pipelines: Gulf South Pipeline Company and Southern Natural Gas.²⁴

²⁰ Email from Mark Futrell, Deputy Executive Director—Technical, Florida Public Service Commission, to Senate Regulated Industries Staff (Mar 19, 2023)(on file with the Senate Regulated Industries Committee).

²¹ Ch. 2011-36, Laws of Fla.

²² Florida Public Service Commission, *About the PSC*, supra note 5.

²³ Florida Public Service Commission, *2022 Facts and Figures of the Florida Utility Industry*, supra note 11, at 13.

²⁴ *Id.*

Regulatory Assessment Fees

The PSC collects Regulatory Assessment Fees (RAFs) from all of the utilities under its jurisdiction. RAFs, license fees, other fees, and any other charges collected by the PSC are credited to the Florida Public Service Regulatory Trust Fund (PSC Trust Fund).²⁵ Florida law generally directs the PSC to manage its trust fund in such a manner that each utility industry funds its own regulation.²⁶ Thus, the RAF rate for each industry is designed to correlate with the complexity and cost of regulating that industry. While the PSC's budget is set annually by the Legislature, as approved by the Governor, Florida general revenue funds are not used to support the PSC's regulatory activities. The operations of the PSC are funded from the PSC Trust Fund as appropriated in the General Appropriation Act approved by the Legislature. The PSC does not receive any funding from the General Revenue Fund.²⁷

Water and wastewater utilities can include the cost of RAFs utilizing the “pass-through” provisions in s. 367.081(4)(b), F.S. This provision allows utilities to revise their rates automatically to account for changes in certain specified expenses (such as RAFs, certain governmental fees and permitting costs, and taxes). A utility using this provision must provide verified notice to the PSC 45 days prior to the implementation of the increase or decrease. The electric and gas utility industries do not have a similar “pass-through” provision.

Rates for RAFs are set by PSC rule, subject to maximum rates established by statute. RAFs are charged as a percentage of gross operating revenues derived from intrastate business, subject to certain exclusions. Chart 1 below provides the current RAFs for Florida utilities, by industry.

²⁵ Section 350.113, F.S.

²⁶ Specifically:

- Section 364.336(2) and (3), F.S., requires the PSC to reduce the RAFs for telecommunications industry after the Regulatory Reform Act of 2011 to reflect the PSC's reduced regulatory oversight of that industry;
- Section 367.145(3), F.S., requires that RAFs collected pursuant to the water and wastewater RAF collection authorization may only be used to cover the cost of regulating water and wastewater systems. Also, fees collected under the electricity utility industry, gas utility industry, and telecommunications industry RAF collection authorizations may not be used to pay for the cost of water and wastewater regulation; and
- Section 368.109, F.S., states that the RAFs set by the PSC for the natural gas transmission (i.e. natural gas pipeline) industry must, to the extent practicable, be related to the cost of regulating that industry.

²⁷ Florida Public Service Commission, *Bill Analysis for SB 1312/HB 1593*, Mar. 10, 2023 (on file with the Senate Regulated Industries Committee).

Chart 1: Regulatory Assessment Fees by Florida Utility Industry

Utility Type	Current RAF	Statutory Maximum
Investor-owned Gas Utilities	0.5% ²⁸	0.5% ²⁹
Municipal Gas Utilities	0.1919% ³⁰	0.25% ³¹
Natural Gas Transmission	0.25% ³²	0.25% ³³
Telecommunications Companies	0.16% ³⁴	0.25% ³⁵
Water and Wastewater Utilities	4.5% ³⁶	4.5% ³⁷
Investor-owned Electric Utilities	0.072% ³⁸	0.125% ³⁹
Municipal Electric Utilities and Rural Electric Cooperatives	0.015625% ⁴⁰	0.015625% ⁴¹

In its analysis of the bill, the PSC points out that “other agencies are exempted from ratification and [statement of estimated regulatory costs procedures (SERC)] because the need for additional legislative scrutiny imposed by ratification was met by the standards imposed under the substantive statutes being implemented by rule.”⁴² For RAFs, as shown above, each statute authorizing the PSC to charge RAFs includes a statutory cap on what the PSC can charge. The maximum RAFs that could be charged by the PSC are subject to statutory control of the maximum fiscal impact.

Rulemaking Authority and Legislative Ratification

A rule is an “agency statement of general applicability that implements, interprets, or prescribes law or policy.”⁴³ Rulemaking authority is delegated by the Legislature in law to an agency, and authorizes an agency to adopt, develop, establish, or otherwise create a rule.⁴⁴ An agency may not engage in rulemaking unless it has a legislative grant of authority to do so.⁴⁵ The statutory

²⁸ Fla. Admin. Code R. 25-7.0131, (2013).

²⁹ Section 366.14, F.S.

³⁰ Fla. Admin. Code R. 25-7.0131, (2013).

³¹ Section 366.14, F.S.

³² Fla. Admin. Code R. 25-7.101, (2013).

³³ Section 368.109, F.S.

³⁴ Fla. Admin. Code R. 25-4.0161, (2011).

³⁵ Section 364.336, F.S.

³⁶ Fla. Admin. Code R. 25-30.120, (2013).

³⁷ Section 367.145, F.S.

³⁸ Fla. Admin. Code R. 25-6.0131, (2013).

³⁹ Section 366.14, F.S.

⁴⁰ Fla. Admin. Code R. 25-6.0131, (2013).

⁴¹ Section 366.14, F.S.

⁴² Florida Public Service Commission, *Bill Analysis for SB 1312/HB 1593*, *supra* note 27.

⁴³ Section 120.52(16), F.S.

⁴⁴ Section 120.52(17), F.S.

⁴⁵ See ss. 120.52(8) and 120.536, F.S.

authority for rulemaking must be specific enough to guide an agency's rulemaking and an agency rule must not exceed the bounds of authority granted by the Legislature.⁴⁶

Prior to the adoption, amendment, or repeal of any rule, an agency must file a notice of the proposed rule in the Florida Administrative Register.⁴⁷ The notice of the proposed rule must include:

- An explanation of the purpose and effect;
- The specific legal authority for the rule;
- The full text of the rule; and
- A summary of the agency's SERC, if one is prepared.⁴⁸

Within 21 days of the notice, the public may provide an agency with information regarding the SERC or provide proposals for a lower cost alternative to the rule.⁴⁹

SERC Requirements

Pursuant to s. 120.541, F.S., agencies must prepare the SERC for a rule that has an adverse impact on small businesses or that increases regulatory costs more than \$200,000 within one year after implementation of the rule.⁵⁰

A SERC must include estimates of the following:

- The number of people and entities affected by the proposed rule;
- The cost to the agency and other governmental entities to implement the proposed rule;
- Transactional costs likely to be incurred for compliance; and
- An analysis of the proposed rule's impact on small businesses, counties, and cities.⁵¹

The SERC must also include an economic analysis on the likelihood that the proposed rule will have an adverse impact in excess of \$1 million within the first five years of implementation on:

- Economic growth, private-sector job creation or employment, or private-sector investment;
- Business competitiveness,⁵² productivity, or innovation; or
- Regulatory costs, including any transactional costs.⁵³

⁴⁶ See *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008) and *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla 1st DCA 2000).

⁴⁷ See ss. 120.54(2)(a) and 120.55(1)(b), F.S.

⁴⁸ Section 120.54(3)(a)1., F.S.

⁴⁹ See ss. 120.54(3)(a)1., and 120.541(1)(a), F.S.

⁵⁰ Section 120.541(1)(a), F.S.

⁵¹ Section 120.541(2)(b)-(e), F.S. A small city has an unincorporated population of 10,000 or less. A small county has an unincorporated population of 75,000 or less. A small business employs less than 200 people, and has a net worth of \$5 million or less.

⁵² Business competitiveness includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

⁵³ Section 120.541(2)(a), F.S.

If the economic analysis results in an adverse impact or regulatory costs in excess of \$1 million within 5 years after implementation of the rule, then the Legislature must ratify the rule in order for it to take effect.⁵⁴

Current Public Service Commission Exemptions to SERC

Currently, the PSC has exemptions to SERC requirements, as provided under s. 120.541, F.S., for the following rulemaking delegations:

- Pole attachment provisions under s. 366.04(8), F.S.
- Safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for poles of communication services providers under s. 366.04(9), F.S.
- Redundancy and transfer of ownership provisions regarding poles under s. 366.97, F.S.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 120.80, F.S., to add ss. 350.113, 364.336, 366.14, 367.145, and 368.109, F.S., to the rules which may be adopted by the PSC that are not subject to Florida's SERC requirements under s. 120.541, F.S. Section 350.113, F.S., creates and provides the requirements for the Florida Public Service Regulatory Trust Fund. Sections 364.336, 366.14, 367.145, and 368.109, F.S., contain the RAF provisions for the telecommunications, electric and gas, water and wastewater, and natural gas transmission industries, respectively.

Section 2 of the bill provides that it shall become effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁵⁴ Section 120.541(3), F.S. Legislative ratification is not required for adoption of federal standards, amendments to the Florida Building Code, or amendments to the Florida Fire Prevention Code. See s. 120.541(4), F.S.

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

None.

B. Private Sector Impact:

While the bill does not substantially financially impact the private sector, it does reduce the process requirements for the PSC to amend RAFs. If the PSC was to amend the RAF rates paid by utilities, such amended costs would likely impact utility rates.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 12.80 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Collins

14-01295-23

20231312__

1 A bill to be entitled
2 An act relating to regulatory assessment fees;
3 amending s. 120.80, F.S.; exempting certain rules
4 adopted by the Florida Public Service Commission
5 relating to regulatory assessment fees from the
6 required filing of statements of estimated regulatory
7 costs and from submission for legislative
8 ratification; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Paragraph (g) of subsection (13) of section
13 120.80, Florida Statutes, is amended to read:
14 120.80 Exceptions and special requirements; agencies.—
15 (13) FLORIDA PUBLIC SERVICE COMMISSION.—
16 (g) Rules adopted by the Florida Public Service Commission
17 to implement ss. 350.113, 364.336, 366.04(8) and (9), 366.14,
18 ~~and 366.97, 367.145, and 368.109~~ are not subject to s. 120.541.
19 Section 2. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Education
Appropriations Committee on Transportation, Tourism,
and Economic Development
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JAY COLLINS

14th District

March 13, 2023

Senator Joe Gruters
316 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Gruters,

I respectfully request that SB 1312 – Regulatory Assessment Fees be heard in the Senate Committee on Regulated Industries at your earliest convenience. This simple bill is crucial to resolving conflicts at our Public Service Commission.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", with a horizontal line underneath.

Jay Collins
Senator, District 14

CC: Booter Imhof, Staff Director
Susan Dares, Committee Administrative Assistant

REPLY TO:

- ☐ 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

From: Mark Futrell <MFutrell@PSC.STATE.FL.US>
Sent: Sunday, March 19, 2023 8:13 AM
To: Schrader, Kurt <Schrader.Kurt@flsenate.gov>
Cc: Katherine Pennington <KPENNING@psc.state.fl.us>; Lance Watson <LWatson@psc.state.fl.us>
Subject: Re: Number of Class A, B, and C Water Utilities in Florida

Kurt,

I don't have access to the precise data, but this is what I could find:

The PSC has authority over 149 W&WW IOUs.

There are 83 water systems and 58 wastewater systems that qualify for a staff assisted rate case.

These utilities have gross annual revenues of \$300,000 or less.

So the vast majority of these systems are considered Class C.

Hope this helps for now, and I'll get the precise breakdown asap.

Thanks,
Mark

On Mar 18, 2023, at 5:48 PM, Schrader, Kurt <Schrader.Kurt@flsenate.gov> wrote:

Mark/Katherine/Lance,

Would any of you know/know of a resource that would have the number of Class A, B, and C water utilities, respectively, in Florida? I did check out the PSC's 2022 Facts and Figures report and didn't see anything there and have tried to run a few searches without luck.

Thank You,

Kurt Schrader
Senior Attorney
Florida Senate Committee on Regulated Industries
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399
Ph: (850) 487-5957

Date: _____

Agency Affected:	Public Service Commission	
Program Manager:	Lance Watson	Telephone: 413.6125
Agency Contact:	Katherine Pennington	Telephone: 413.6596
Respondent:	Katherine Pennington	Telephone: 413.6596

RE: SB 1312/HB 1593

I. SUMMARY:

SB 1312 and HB 1593 are identical and amend Section 120.80, Florida Statutes (F.S.), to exempt rules adopted by the Florida Public Service Commission (PSC) that implement Sections 350.113, 364.336, 366.14, 367.145, and 368.109, F.S., (the statutes pertaining to the regulatory assessment fees (RAFs) paid to the PSC from the utilities and companies it regulates) from Section 120.541, F.S., which contains requirements for an agency's statement of estimated regulatory costs (SERC) and the legislative ratification of proposed rules.

II. PRESENT SITUATION:

PSC RAFs

The PSC is an arm of the Legislature and given authority to regulate the rates and service of electric, natural gas, water, and wastewater investor-owned utilities; limited authority over municipal electric and natural gas utilities, rural electric cooperative utilities, and natural gas districts; along with certain regulatory oversight of telecommunications companies. § 350.001, Fla. Stat. The PSC is wholly funded by RAFs that are levied on the utilities and companies the PSC regulates. *See* §§ 364.336, 366.14, 367.145, 368.109, Fla. Stat. The RAFs are credited to the Florida Public Service Regulatory Trust Fund (PSC Trust Fund) and withdrawn according to the PSC's budget that is set annually by the Legislature. *See* § 350.113, Fla. Stat. The PSC does not receive any funding from the State of Florida's General Revenue Fund.

The Legislature has established a statutory duty for the PSC to set and collect RAFs from the utilities and companies over which it has authority. Each statute granting the PSC authority over a utility or company also requires each utility or company to pay a RAF. §§ 364.336, 366.14, 367.145, 368.109, Fla. Stat. The Legislature requires the PSC to establish the RAF rate for each industry and the types of utilities and companies it regulates via rule.

Although RAF rates are set by rule, each statute granting the PSC the power to collect RAFs contains explicit guidance limiting the PSC's authority to set RAF rates. RAFs cannot exceed a maximum rate (cap) that is set forth in each industry's RAF statute. RAFs for each industry must be sufficient to cover the cost of regulating the utilities or companies in that industry, to the extent practicable. *See* § 350.113(3), Fla. Stat. When the PSC proposes a rule establishing or amending a RAF rate, the proposed rule can be challenged by the utilities and companies subject to the rule, the Office of Public Counsel, and other affected persons. *See* § 120.54, Fla. Stat.

Moreover, the RAFs shall, to the extent practicable, be related to the cost of regulating the different types of utilities and companies subject to the PSC's authority. § 350.113, Fla. Stat.

Neither the RAF rates nor the statutory caps on RAF rates have been changed in well over two decades. The RAF rate established by PSC rule for some industries no longer reflects the true cost of regulation as required by statute. As a result, annual withdrawals from the PSC Trust Fund, which are necessary to fund the PSC's regulatory duties, may exceed the RAF revenues deposited into the PSC Trust Fund in any given year(s).

SERCs and Legislative Ratification of Proposed Rules

The Legislature requires the PSC to establish the RAF rate for each type of utility and company via rule. Thus, to change the RAF rate, the PSC must go through the rulemaking process set out in Section 120.54, F.S.

Pursuant to Section 120.54(3)(b)1., F.S., a SERC must be prepared by the agency, as provided in Section 120.541, F.S., if a proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1 year after the implementation of the rule. Section 120.541, F.S., requires the Legislature to ratify any proposed agency rule if the SERC concludes that the proposed rule is likely to increase regulatory costs in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Because of the sheer size of the industries regulated by the PSC, even the slightest marginal increase in RAF rates set forth in each PSC RAF rule would trigger the SERC and legislative ratification requirements of Section 120.541, Florida Statutes.

Other agencies are exempted from ratification and SERC procedures because the need for additional legislative scrutiny imposed by ratification was met by the standards imposed under the substantive statutes being implemented by rule. Because the Legislature was already aware of or has directed the economic impact, it has exempted from ratification and SERC requirements the rules as described in Sections 120.541(4) and 120.80(13)(g), (16)(d), (17), and (18), F.S.

III. EFFECT OF PROPOSED CHANGES:

SB 1312 and HB 1593 amend Section 120.80(13), F.S., to grant the PSC an exemption from Section 120.541, F.S., for the PSC's RAF rules. The effect of the bills would be that the PSC would not have to prepare a SERC or submit proposed RAF rules for legislative ratification as part of the rulemaking process.

The purpose of the SERC is to give those regulated by a proposed rule and other affected persons an estimate of the fiscal impact of the proposed rule. Because the laws implementing the PSC RAF rules (Sections 350.113, 364.336, 366.14, 367.145, and 368.109, F.S.) contain caps on the RAF rate the PSC can impose on each industry, the Legislature has already considered the fiscal impact of the PSC RAF rules. Thus, the requirement that the PSC prepare a SERC for these rules as part of the rulemaking process could be considered redundant and unnecessary.

The ratification requirement was adopted to give the Legislature additional oversight of agency rulemaking, beyond the protections already provided in Chapter 120, F.S., as a check and balance on agency discretion. Its purpose was to limit an agency's ability to interpret a law in a way not intended by the Legislature by adopting rules with harmful economic consequences based on the agency's erroneous interpretation of a law.

Legislative ratification was not intended, however, to apply to agency rules that are expressly authorized by statute where sufficient checks and balances already exist that satisfy the public policy purposes underlying the ratification requirement. This is the case with the PSC RAF rules because the PSC's discretion to raise the RAF rates is limited by statute and the Legislature's annual review of the PSC's budget.

Exempting the PSC RAF rules from the SERC and legislative ratification requirements will allow the PSC to prudently manage its use of existing statutory funding mechanisms, as overseen by the Legislature through the statutory caps and other caveats already adopted by the Legislature and through the annual budget/appropriations process.

The Legislature has exempted other rules from the legislative ratification requirements. Section 120.541(4) and 120.80(13)(g), (16)(d), (17), and (18), F.S., for example, exempts other agencies from the legislative ratification requirement for regular and repeating amendments to rules and codes that are expressly authorized or required by statute. Additionally, the Legislature recently granted the PSC a limited exemption from the SERC and legislative ratification requirements for rules regulating the safety and maintenance of utility poles and the rates and terms of pole attachments. §§ 120.80(13)(g), 366.04(8) and (9), Fla. Stat. Exempting the PSC's RAF rules from the SERC and legislative ratification requirements is consistent with these other exemptions.

Under the bills, the PSC will still be required to adhere to all other aspects of the rulemaking process in Section 120.54, F.S., when amending its RAF rules. Moreover, the bills do not affect the caps for each industry's RAF rate set forth in the laws implementing the rules.

ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

(in this section please provide information concerning FTEs. How many positions, if any will be necessary to enact this bill. Also, what specific positions will be needed.)

	(FY 23-24) <u>Amount / FTE</u>	(FY 24-25) <u>Amount / FTE</u>	(FY 25-26) <u>Amount / FTE</u>
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

None.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

No.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

No.

D. Other:

None.

VIII. COMMENTS:

None.

Prepared by: Samantha Cibula
Date: March 10, 2023

APPEARANCE RECORD

SB1312

Bill Number or Topic

03/29/23

Meeting Date

Reg. Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Braulio Baez (PSC)

Phone

Address

2540 Shumard Oak Blvd.

Email

Street

Tallahassee

City

FL

State

32308

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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/CS/SB 162

INTRODUCER: Regulated Industries Committee, Environment and Natural Resources Committee and Senator Collins

SUBJECT: Water and Wastewater Facility Operators

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 162 requires the Department of Environmental Protection (DEP) to issue reciprocal licenses to water utility workers licensed in other jurisdictions and other license applicants who meet certain requirements. The bill directs the DEP to award education and operational experience credits to license applicants who have performed comparable duties in the United States Armed Forces but who do not meet some other requirements for a reciprocal license.

The bill also provides that, during a declared state of emergency under s. 252.36, F.S., the DEP:

- May issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity; and
- Must waive the application fee for a temporary operator license.

The DEP must also adopt rules for licensure by reciprocity.

II. Present Situation:

Water Treatment Facilities

The DEP has the primary role of regulating public water systems in Florida.¹ A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more service connections. These public water systems may be publicly or privately owned and operated. Smaller water systems that provide water for public consumption, but which do not fall under the above definition, are regulated by the Department of Health and the county health departments.²

Public drinking water systems use different water treatment methods to provide safe drinking water to local communities.³ Public water systems often use a series of water treatment steps that include coagulation,⁴ flocculation,⁵ sedimentation, filtration, and disinfection.⁶

Wastewater Treatment Facilities

According to the DEP, the proper treatment and disposal or reuse of wastewater is a crucial part of protecting Florida's water resources.⁷ Each person in Florida generates about 100 gallons of domestic wastewater each day.⁸ This wastewater must be managed to protect public health, water quality, recreation, fish and wildlife, and the aesthetic appeal of our waterways.⁹ Domestic wastewater in Florida is treated either by on-site sewage treatment and disposal systems (OSTDSs), also known as septic tanks, or by centralized domestic (municipal) wastewater treatment facilities.¹⁰ The majority of the state's domestic wastewater is treated by larger centralized treatment facilities, which are the regulatory responsibility of the DEP's Wastewater Management Program.¹¹ The DEP also regulates smaller domestic wastewater treatment facilities, known as "package plants," as well as networked, distributed wastewater treatment systems.¹²

¹ DEP, *Source and Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Mar. 24, 2023), and Section 403.852(1), F.S.

² *Id.*

³ U.S. Centers for Disease Control and Prevention (CDC), *Water Treatment*, https://www.cdc.gov/healthywater/drinking/public/water_treatment.html (last visited Mar. 24, 2023).

⁴ Coagulation is often the first step in water treatment. During coagulation, chemicals with a positive charge are added to the water. The positive charge neutralizes the negative charge of dirt and other dissolved particles in the water. When this occurs, the particles bind with the chemicals to form slightly larger particles. *Id.*

⁵ Flocculation follows the coagulation step. Flocculation is the gentle mixing of the water to form larger, heavier particles called flocs. Often, water treatment plants will add additional chemicals during this step to help the flocs form. *Id.*

⁶ *Id.*

⁷ DEP, *General Facts and Statistics about Wastewater in Florida*, <https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida> (last visited Mar. 24, 2023).

⁸ DEP, *Domestic Wastewater Program*, <https://floridadep.gov/water/domestic-wastewater> (last visited Mar. 24, 2023).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

The DEP is also responsible for permitting and compliance activities for the state's approximately 2,000 domestic wastewater treatment facilities.¹³ The DEP's Wastewater Management Program develops and administers rules and policy for proper treatment of wastewater from domestic facilities.¹⁴ The Wastewater Management Program is also responsible for regulating domestic industrial pretreatment, domestic biosolids management, reuse of reclaimed water, and domestic wastewater to wetlands programs.

Licensure Requirements

The DEP derives its water system authority from the Florida Safe Drinking Water Act¹⁵ and has been delegated authority from the U.S. Environmental Protection Agency to implement the federal Safe Drinking Water Act.¹⁶

State law provides that a current operator's license issued by the DEP is required in order for a person to perform the duties of an operator of a water treatment plant, water distribution system, or domestic wastewater treatment plant.¹⁷ A "water treatment plant" collects, treats, and stores water for human consumption;¹⁸ "water distribution system" conveys water for human consumption;¹⁹ and "domestic wastewater treatment plant" treats, stabilizes, or holds domestic waste.²⁰ An operator is any person, including the owner, who is onsite and in charge of the actual operation of such plants or systems.²¹

To become a licensed operator, a person must apply to the DEP to take the licensure examination, submit a completed application for licensure, remit all required fees,²² and meet certain other criteria, including having a high school diploma or its equivalent, successfully completing a training course approved by the DEP, and possessing onsite operational experience.²³ The Department of Veteran Affairs offers reimbursement of fees associated with professional licensure exams to qualified veterans.²⁴

¹³ DEP, *General Facts and Statistics about Wastewater in Florida*, *supra* note 7.

¹⁴ DEP, *Domestic Wastewater Program*, *supra* note 8.

¹⁵ Sections 403.850 – 403.892, F.S.

¹⁶ DEP, *Source and Drinking Water Program*, <https://floridadep.gov/water/source-drinking-water> (last visited Mar. 24, 2023).

¹⁷ Section 403.867, F.S.

¹⁸ Section 403.866(6), F.S.

¹⁹ Section 403.866(5), F.S.

²⁰ Section 403.866(2), F.S.

²¹ Section 403.866(3), F.S.

²² Individuals must submit a \$25 fee at the time they submit their application to take the licensure examination. Fla. Admin. Code R. 62-602.600(1). Individuals applying for a Class A, Class B, or Class C Treatment Plant Operator license must submit \$50 at the time they submit their application for licensure, and individuals applying for a Class D Treatment Plant Operator license or a Water Distribution System Operator license must submit \$25. Fla. Admin. Code R. 62-602.600(2).

²³ Section 403.872, F.S.; Fla. Admin. Code R. 62-602.300.

²⁴ DEP, *Water and Domestic Wastewater Operator Certification Program*, <https://floridadep.gov/water/certification-restoration/content/water-and-domestic-wastewater-operator-certification-program> (last visited Mar. 24, 2023).

Licensure Reciprocity

Ensuring a pool of qualified and certified operators is essential in addressing the workforce needs of water utilities.²⁵ However, because licensing standards vary by state and an operator license is typically only valid in the state in which it is issued, it can be challenging to recruit new out-of-state operators.²⁶ This may be particularly problematic as the workforce becomes more mobile and workers change jobs and move across state lines more frequently.²⁷ Most states offer reciprocity to make it easier for an operator who already holds a license in one state to obtain a license in another state.²⁸

Florida does not offer reciprocal licensure to individuals who are licensed in other states or jurisdictions. Florida is one of only three states that do not offer reciprocal licensure for operators of water treatment plants or water distribution systems (Nebraska and Oklahoma are the others), and is one of two states that do not offer reciprocal licensure to operators of domestic wastewater facilities (Oklahoma is the other).²⁹

State Emergency Management Act

The State Emergency Management Act (act), part I, ch. 252, F.S., was enacted to be the legal framework for this state's emergency management activities, recognizing the state's vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.³⁰ In order to reduce the state's vulnerability to these circumstances and to prepare to respond to them, the act promotes the state's emergency readiness through enhanced coordination, long-term planning, and adequate funding.³¹

The act creates the Division of Emergency Management (division) within the Executive Office of the Governor and grants the division with powers and duties necessary to mitigate the vulnerability of life, property, and economic prosperity due to natural and manmade disasters.³²

The act also delineates the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. If the Governor finds that an emergency³³ has occurred or is imminent, he or she must declare a state of emergency.³⁴ An executive order or proclamation of a state of emergency shall identify whether the state of

²⁵ Jeff Oxenford and Jim Ginley, American Water Works Association, *Operator Licensing Requirements Across the United States*, 2 (2018), available at https://www.awwa.org/Portals/0/AWWA/ETS/Resources/Final_Report_Compiled_2.19.18.pdf?ver=2019-02-18-142536-257.

²⁶ *Id.* at 4.

²⁷ *Id.* at 12.

²⁸ See generally American Water Works Association, *Operator certification requirements catalogued for all 50 states* (2018), <https://www.awwa.org/AWWA-Articles/operator-certification-requirements-catalogued-for-all-50-states> (last visited Mar. 24, 2023).

²⁹ Oxenford, *supra* note 25, at 8.

³⁰ Section 252.311(1), F.S.

³¹ Section 252.311(3), F.S.

³² Sections 252.32(1)(a) and 252.34(3), F.S.

³³ "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. See s. 252.34(4), F.S.

³⁴ Section 252.36(2), F.S.

emergency is due to a minor,³⁵ major,³⁶ or catastrophic³⁷ disaster.³⁸ The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.³⁹ Additionally, the Legislature may end a state of emergency by passing a concurrent resolution.⁴⁰

III. Effect of Proposed Changes:

Section 1 amends s. 403.865, F.S., regarding water and wastewater facility personnel, to include the following legislative findings:

- Water and wastewater services are essential to the health and well-being of all citizens; and
- Drinking water and wastewater facility personnel are essential first responders.

The section also defines “drinking water and wastewater facility personnel,” as used in the findings, as, “any employee of a governmental authority as defined in s. 367.021;⁴¹ a utility as defined in s. 367.021;⁴² a state, municipal, or county sewerage system as defined in s. 403.031(9);⁴³ or a public water system as defined in s. 403.852(2).⁴⁴”

Section 2 amends s. 403.867, F.S., which provides that a person may not perform the duties of an operator of a water treatment plant, water distribution system, or domestic wastewater treatment plant unless he or she holds a current operator’s license issued by the DEP. The bill changes this requirement by providing that an operator must hold an *active and valid operator* license issued by the DEP under s. 403.872, F.S., which provides the requirements for licensure, or s. 403.8721, F.S., which is created by this bill.

Section 3 creates s. 403.8721, F.S., to establish requirements for licensure by reciprocity. The bill directs the DEP to issue a license by reciprocity to any applicant who meets, at minimum, all of the following requirements:

³⁵ “Minor disaster” means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. See s. 252.34(2)(c), F.S.

³⁶ “Major disaster” means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance. See s. 252.34(2)(b), F.S.

³⁷ “Catastrophic disaster” means a disaster that will require massive state and federal assistance, including immediate military involvement. See s. 252.34(2)(a), F.S.

³⁸ Section 252.36(4)(c), F.S.

³⁹ Section 252.36(2), F.S.

⁴⁰ Section 252.36(3), F.S.

⁴¹ Section 367.021, F.S., defines “governmental authority” as, “a political subdivision, as defined by s. 1.01(8), a regional water supply authority created pursuant to s. 373.713, or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.”

⁴² Section 367.021, F.S., defines “utility” as, “a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.”

⁴³ Section 403.031(9), F.S., defines “sewerage system” as, “pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.”

⁴⁴ Section 403.852(2), F.S., defines “public water system,” in part, as, “a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.”

- Is a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator and holds an active and valid license from another state, the Federal Government, a territory or tribal government that has been designated as the primary agency by the U.S. Environmental Protection Agency, or any unit thereof for which the licensure requirements, including education and operational experience, are comparable to or exceed Florida's licensure requirements;
- Has passed a licensure examination comparable to the licensure examination of the DEP, subject to approval by the DEP;
- Is not the subject of a disciplinary or enforcement action outside this state at the time of application for reciprocal licensure;
- Submits a completed application for reciprocal licensure and any required supporting documentation; and
- Remits the application fee.

The bill also directs the DEP to issue a license by reciprocity to any applicant who has performed duties comparable to a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator while serving in the U.S. Armed Forces for which the requirements for performing the duties, including education and operational experience, are comparable to or exceed Florida's licensure requirements. Such applicants must, at minimum, meet the following requirements:

- (1) Passing a skill assessment or competency examination comparable to the DEP's licensure exam;
- (2) Not being subject to a disciplinary or enforcement action at the time of application for reciprocal licensure;
- (3) Submitting a completed application for reciprocal licensure and any required supporting documentation; and
- (4) Remitting the application fee.

If an applicant does not meet the requirements under (1) and (2) above, the DEP must award education and operational experience credits for licensure under s. 403.872, F.S., which provides the requirements for licensure in Florida.

The bill also provides that, during a declared state of emergency pursuant to s. 252.36, F.S., the DEP:

- May issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity; and
- Must waive the application fee for a temporary operator license.

The bill also directs the DEP to adopt rules to implement this section.

Section 3 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an insignificant negative fiscal impact on the DEP because the bill requires the DEP to waive the application fee for a temporary reciprocal license issued during a declared state of emergency. In addition, the bill may have a negative fiscal impact on the DEP related to reviewing the licensure examinations of other jurisdictions and determining whether those examinations are comparable to the DEP's licensure examination. The DEP estimates year one non-recurring expenses of \$11,000 and \$184,000 in annual recurring expenses associated with salary and benefits to implement the program, including public outreach and staff training.⁴⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁵ Email from Alex Kernan, Director of Legislative and Governmental Affairs, DEP, to Senate Committee on Environment and Natural Resources (Mar. 14, 2023) (email on file with the Senate Committee on Regulated Industries).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.865 and 403.867.

This bill creates section 403.8721 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on March 20, 2023:

The amendment reorganizes the bill language to clarify that only applicants who have performed comparable duties in the United States Armed Forces are eligible for education and operational experience credits.

CS by Regulated Industries on March 29, 2023:

The amendment revises the bill to:

- Amend legislative intent and provide a definition for the term “drinking water and wastewater facility personnel” within the legislative intent.
- Clarify that the standards for the Department of Environmental Protection (DEP) to approve a reciprocal water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator, provided in the bill for a license-holder from another government entity, or with certain armed forces experience, are minimum standards.
- Provide rulemaking authority for the DEP.
- Make technical revisions.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 27 - 98
and insert:

(b) Drinking water and wastewater facility personnel are essential first responders. As used in this section, the term "drinking water and wastewater facility personnel" means any employee of a governmental authority as defined in s. 367.021; a utility as defined in s. 367.021; a state, municipal, or county sewerage system as defined in s. 403.031(9); or a public water



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system as defined in s. 403.852(2).

(c) The threat to the public health and the environment from the operation of water and wastewater treatment plants and water distribution systems mandates that qualified personnel operate these facilities.

(2) It is the ~~legislative~~ intent of the Legislature that any person who performs the duties of an operator and who falls below minimum competency or who otherwise presents a danger to the public be prohibited from operating a plant or system in this state.

Section 2. Section 403.867, Florida Statutes, is amended to read:

403.867 License required.—A person may not perform the duties of an operator of a water treatment plant, water distribution system, or a domestic wastewater treatment plant unless he or she holds an active and valid operator ~~a current operator's~~ license issued by the department under s. 403.872 or s. 403.8721.

Section 3. Section 403.8721, Florida Statutes, is created to read:

403.8721 Requirements for licensure by reciprocity.—

(1) The department shall issue a license by reciprocity to any applicant who, at a minimum, meets all of the following requirements:

(a) Is a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator and holds an active and valid license from another state, the Federal Government, a territory or tribal government that has been designated as the primary agency by the United States



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Environmental Protection Agency, or any unit thereof for which the licensure requirements, including education and operational experience, are comparable to or exceed the licensure requirements of s. 403.872.

(b) Has passed a licensure examination comparable to the licensure examination of the department, subject to approval by the department.

(c) Is not the subject of a disciplinary or enforcement action outside this state at the time of application for reciprocal licensure.

(d) Submits a completed application for reciprocal licensure and any required supporting documentation.

(e) Remits the application fee.

(2) The department shall issue a license by reciprocity to any applicant who has performed duties comparable to a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator while serving in the United States Armed Forces for which the requirements for performing the duties, including education and operational experience, are comparable to or exceed the licensure requirements of s. 403.872.

(a) Any person applying for a license by reciprocity under this subsection must, at a minimum, meet all of the following requirements:

1. Has passed a skill assessment or competency examination comparable to the licensure examination of the department, subject to approval by the department.

2. Is not the subject of a disciplinary or enforcement action at the time of application for reciprocal licensure.



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3. Submits a completed application for reciprocal licensure and any required supporting documentation.

4. Remits the application fee.

(b) If an applicant does not meet the requirements for licensure under subparagraphs (a)1. and 2., the department must award education and operational experience credits for licensure under s. 403.872.

(3) During a state of emergency declared pursuant to s. 252.36, the department:

(a) May issue a temporary water treatment plant operator license, water distribution system operator license, or domestic wastewater treatment plant operator license by reciprocity to any applicant who meets the requirements of subsection (1) or subsection (2).

(b) Shall waive the application fee for a temporary operator license under this subsection.

(4) The department shall adopt rules to implement this section.

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

And the title is amended as follows:

Delete lines 4 - 15

and insert:

legislative findings and intent; defining the term
"drinking water and wastewater facility personnel";
amending s. 403.867, F.S.; conforming a provision to
changes made by the act; creating s. 403.8721, F.S.;
requiring the Department of Environmental Protection
to issue water treatment plant operator licenses,



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98 water distribution system operator licenses, and
99 domestic wastewater treatment plant operator licenses
100 by reciprocity to certain applicants; providing
101 licensure requirements; authorizing the department to
102 issue temporary operator licenses during a declared
103 state of emergency; requiring the department to waive
104 the application fee for temporary operator licenses;
105 requiring the department to adopt rules; providing an

By the Committee on Environment and Natural Resources; and
Senator Collins

592-02767-23

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A bill to be entitled

An act relating to water and wastewater facility operators; amending s. 403.865, F.S.; revising legislative findings and intent; amending s. 403.867, F.S.; conforming a provision to changes made by the act; creating s. 403.8721, F.S.; requiring the Department of Environmental Protection to issue water treatment plant operator licenses, water distribution system operator licenses, and domestic wastewater treatment plant operator licenses by reciprocity to certain applicants; providing licensure requirements; authorizing the department to issue temporary operator licenses during a declared state of emergency; requiring the department to waive the application fee for temporary operator licenses; providing an effective date.

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

Section 1. Section 403.865, Florida Statutes, is amended to read:

403.865 Water and wastewater facility personnel; legislative purpose.—

(1) The Legislature finds that:

(a) Water and wastewater services are essential to the health and well-being of all citizens.

(b) Water and wastewater facility personnel are essential first responders.

(c) The threat to the public health and the environment

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

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from the operation of water and wastewater treatment plants and water distribution systems mandates that qualified personnel operate these facilities.

(2) It is the legislative intent of the Legislature that any person who performs the duties of an operator and who falls below minimum competency or who otherwise presents a danger to the public be prohibited from operating a plant or system in this state.

Section 2. Section 403.867, Florida Statutes, is amended to read:

403.867 License required.—A person may not perform the duties of an operator of a water treatment plant, water distribution system, or a domestic wastewater treatment plant unless he or she holds an active and valid operator ~~a current operator's~~ license issued by the department under s. 403.872 or s. 403.8721.

Section 3. Section 403.8721, Florida Statutes, is created to read:

403.8721 Requirements for licensure by reciprocity.—

(1) The department shall issue a license by reciprocity to any applicant who meets all of the following requirements:

(a) Is a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator and holds an active and valid license from another state, the Federal Government, a territory or tribal government that has been designated as the primary agency by the United States Environmental Protection Agency, or any unit thereof for which the licensure requirements, including education and operational experience, are comparable to or exceed the licensure

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

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59 requirements of s. 403.872.

60 (b) Has passed a licensure examination comparable to the
 61 licensure examination of the department, subject to approval by
 62 the department.

63 (c) Is not the subject of a disciplinary or enforcement
 64 action outside this state at the time of application for
 65 reciprocal licensure.

66 (d) Submits a completed application for reciprocal
 67 licensure and any required supporting documentation.

68 (e) Remits the application fee.

69 (2) The department shall issue a license by reciprocity to
 70 any applicant who has performed duties comparable to a water
 71 treatment plant operator, water distribution system operator, or
 72 domestic wastewater treatment plant operator while serving in
 73 the United States Armed Forces for which the requirements for
 74 performing the duties, including education and operational
 75 experience, are comparable to or exceed the licensure
 76 requirements of s. 403.872.

77 (a) Any person applying for a license by reciprocity under
 78 this subsection must meet the following requirements:

79 1. Has passed a skill assessment or competency examination
 80 comparable to the licensure examination of the department,
 81 subject to approval by the department.

82 2. Is not the subject of a disciplinary or enforcement
 83 action at the time of application for reciprocal licensure.

84 3. Submits a completed application for reciprocal licensure
 85 and any required supporting documentation.

86 4. Remits the application fee.

87 (b) If an applicant does not meet the requirements for

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88 licensure under paragraph (a), the department shall award
 89 education and operational experience credits for licensure under
 90 s. 403.872.

91 (3) During a declared state of emergency, the department:

92 (a) May issue a temporary water treatment plant operator
 93 license, water distribution system operator license, or domestic
 94 wastewater treatment plant operator license by reciprocity to
 95 any applicant who meets the requirements of subsection (1) or
 96 subsection (2).

97 (b) Shall waive the application fee for a temporary
 98 operator license under this subsection.

99 Section 4. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Education
Appropriations Committee on Transportation, Tourism,
and Economic Development
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JAY COLLINS

14th District

March 22, 2023

Senator Joe Gruters
316 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chair Gruters,

I respectfully request that SB 162 – Water and Wastewater Facility Operators be added to the calendar for the next available Regulated Industries Committee. This bill is crucial to ensuring that our wastewater facilities are able to manage their work and bolster their workforce.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", with a horizontal line underneath.

Senator Jay Collins
Senate District 14

Cc: Booter Imhof, Staff Director
Susan Datres, Committee Administrative Assistant

REPLY TO:

- ☐ 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

Barriero, Janelle

From: Kernan (Bickley), Alex <Alex.Kernan@floridadep.gov>
Sent: Tuesday, March 14, 2023 5:01 PM
To: Rogers, Ellen
Cc: Barriero, Janelle
Subject: RE: 162/23

Hi Ellen,

Under the provisions of this bill, DEP would anticipate receiving between 100-200 reciprocity licensing applications per year. Assuming a reciprocity license application is a similar workload to current applications, the Department's Operator Certification Program (OCP) would need two additional Program Consultant FTEs to implement water and wastewater operator license reciprocity, including public outreach and staff training. This estimate is based upon the existing workload which requires an additional one FTE for every 104 applications received. The total financial impact for these positions would be approximately \$195,301.

Estimated Salary, Benefits and Expenses Impact of Bill HB 23

Category	Recurring	Nonrecurring	Total
Salaries & Benefits	\$171,228		\$171,228
OPS			
Expenses	\$12,738	\$10,652	\$23,390
OCO			
Contracted Services	TBD	TBD	TBD
Special Category/FCO			
Transfer/DMS/HR	\$684		\$684
TOTAL	\$184,650	\$10,652	\$195,302

Salary Rate	\$110,000
FTE	2.00

The required Information Technology (IT) costs of creating or enhancing, as well as the recurring costs to maintain, the OCP database are yet to be determined. This would affect the "Contracted Services" line item and totals in the table above.



Alex (Bickley) Kernan

Director of Legislative and Governmental Affairs
Florida Department of Environmental Protection

Alex.Kernan@FloridaDEP.gov

Office: 850-245-2092

Cell: 850-408-4507

From: Rogers, Ellen <ROGERS.ELLEN@flsenate.gov>
Sent: Tuesday, March 14, 2023 4:57 PM
To: Kernan (Bickley), Alex <Alex.Kernan@floridadep.gov>
Cc: Barriero, Janelle <Barriero.Janelle@flsenate.gov>
Subject: 162/23

EXTERNAL MESSAGE

This email originated outside of DEP. Please use caution when opening attachments, clicking links, or responding to this email.

Alex,

The House analysis has a fiscal impact to DEP in it. Can you send us that info if you've put something together? Thank you

Ellen Wolfgang Rogers

Staff Director
Committee on Environment and Natural Resources
Florida Senate
850-487-5372



The Florida Senate

APPEARANCE RECORD

3/29/23

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

162

Bill Number or Topic

Reg Industries

Committee

Amendment Barcode (if applicable)

Name

Gary Williams

Phone

850/668-2746

Address

FL Rural Water Association

Email

gary.williams@frwa.net

Street

2970 Wellington Circle

Tallahassee

FL

32312

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Rural Water Association (FRWA)

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

03.29.23

Meeting Date

Regulated Industries

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

162

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Rebecca O'Hara**

Phone **850.222.9684**

Address **PO Box 1757**

Email **rohara@flcities.com**

Street

Tallahassee

FL

32302

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida League of Cities

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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: SB 534

INTRODUCER: Senator Trumbull

SUBJECT: Individual Wine Containers

DATE: March 23, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Favorable
2.			CM	
3.			RC	

I. Summary:

SB 534 repeals the limits on the size of a wine container, which in current law may not hold more than one gallon, unless the container is reusable and holds 5.16 gallons.

The effective date of the bill is July 1, 2023.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces¹ the Beverage Law,² which regulates the manufacture, distribution, and sale of wine, beer, and liquor.³ The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

Wine

The term “wine” means:⁴

all beverages made from fresh fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added, in the manner required by the laws and regulations of the United States, and includes all sparkling wines, champagnes, combination of the aforesaid beverages, sake, vermouths, and like products. Sugar, flavors, and coloring materials may be added to wine to make it conform to the consumer's taste, except that the ultimate flavor

¹ Section 561.02, F.S.

² Section 561.01(6), F.S., provides that the “Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

³ See s. 561.14, F.S.

⁴ Section 564.01(1), F.S.

or the color of the product may not be altered to imitate a beverage other than wine or to change the character of the wine.

“Fortified wine” means all wines containing more than 17.259 percent of alcohol by volume.⁵

Wine Container Size Limits

Section 564.05, F.S., prohibits the sale of wine in an individual container that holds more than one gallon (3.785 liters) of wine. However, wine may be sold in a reusable container of 5.16 gallons (19.5 liters). Distributors and manufacturers may sell wine to other distributors and manufacturers in containers of any size. Any person who violates the prohibition in s. 564.05, F.S., commits a second degree misdemeanor.⁶

Federal law specifies fill standards for wine containers.⁷ The wine container must be filled to contain the quantity of wine authorized in the federal fill standards so as not to mislead the consumer.⁸ The authorized standards of fill range from 50 milliliters to three liters. However, if the fill of the wine container is four liters or larger, the container must be labeled in even liters, e.g., four liters, five liters, etc.⁹ There are also several exceptions to the standard fill requirements, including exceptions for certain imported wines in original containers, wines bottled before specified dates, and wine packed in containers of 18 liters or more.¹⁰

III. Effect of Proposed Changes:

The bill repeals the wine container size limits in s. 564.05, F.S.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁵ Section 564.01(2), F.S.

⁶ Section 775.082(4), F.S., provides the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083(1)(e), F.S., provides the penalty for a misdemeanor of the second degree is a fine not to exceed \$500.

⁷ 27 C.F.R. s. 4.70 *et seq.*

⁸ 27 C.F.R. s. 4.71.

⁹ 27 C.F.R. s. 4.72.

¹⁰ 27 C.F.R. s. 4.70. The standard wine barrel is 225 liters or 59 gallons. See Wine Industry Advisor, Living Large: Supersizing Barrels for a Subtler Impact, at: <https://wineindustryadvisor.com/2020/08/11/living-large-supersizing-barrels-for-a-subtler-impact> (last visited Mar. 23, 2023).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 564.05 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Trumbull

2-00685-23

2023534__

A bill to be entitled

An act relating to individual wine containers;
repealing s. 564.05, F.S., relating to the limitation
of size of individual wine containers; providing an
effective date.

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

Section 1. Section 564.05, Florida Statutes, is repealed.

Section 2. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, Chair
Appropriations Committee on Transportation, Tourism
and Economic Development, Vice Chair
Appropriations Committee on Agriculture, Environment
and General Government
Banking and Insurance
Fiscal Policy
Judiciary
Transportation

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR JAY TRUMBULL
2nd District

February 22, 2023

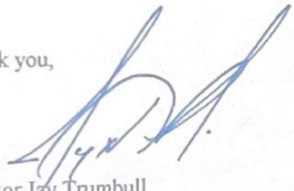
Re: SB 534

Dear Chair Gruters,

I am respectfully requesting Senate Bill 534, related to Wine Containers, be placed on the agenda for your committee on Regulated Industries.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,


Senator Jay Trumbull
District 2

REPLY TO:
☐ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
☐ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO

DENNIS BAXLEY

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 1570

INTRODUCER: Senators Hooper and Osgood

SUBJECT: Local Occupational Licensing

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 1570 amends s. 163.211, F.S., relating to the preemption of occupational licensing to the state, to extend by one year, to July 1, 2024, the date that local governments may require and issue local occupation licenses, but only if such licensing was imposed by the local government before January 1, 2021.

The bill does not impact state government.

The bill is effective upon becoming a law.

II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have the governmental, corporate, and proprietary powers that

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Unlike counties or municipalities, independent special districts do not possess home rule power. Therefore, the powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or general law.⁴ Special districts provide specific services in addition to, or in place of, those provided by a municipality or county.⁵

Revenue Source Authorized in the Florida Constitution⁶

The Florida Constitution limits the ability of local governments to raise revenue for their operations. The Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes⁷ shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.⁸

Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.⁹

However, not all local government revenue sources are taxes requiring general law authorization. When a county or municipal revenue source is imposed by ordinance, the question is whether the charge is a valid assessment or fee. As long as the charge is not deemed a tax, the imposition of the assessment or fee by ordinance is within the constitutional and statutory home rule powers of county and municipal governments. If the charge is not a valid assessment or fee, it is deemed a revenue source requiring general law authorization.

Local Government Revenue Sources Based on Home Rule Authority¹⁰

Pursuant to home rule authority, counties and municipalities may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or

³ FLA. CONST. art. VIII, s. 2(b). See also s. 166.021(1), F.S.

⁴ See s. 189.031(3)(b), F.S. See also *State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist.*, 408 So.2d 1067, 1068 (Fla. 1st DCA 1982).

⁵ State Affairs Committee and Local, Federal & Veterans Affairs Subcommittee, The Florida House of Representatives, *The Local Government Formation Manual 2018 - 2020*, available at <https://myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf> (last visited Mar. 24, 2023).

⁶ See Office of Economic and Demographic Research, The Florida Legislature, *2022 Local Government Financial Handbook*, available at <http://www.edr.state.fl.us/Content/local-government/reports/lghf22.pdf> (last visited Mar. 24, 2023).

⁷ Pursuant to s. 192.001(1), F.S., “ad valorem tax” means a tax based upon the assessed value of property.

⁸ FLA. CONST. art. VII, s. 1(a).

⁹ FLA. CONST. art. VII, s. 9(a).

¹⁰ See also The Florida Legislature, *2022 Local Government Financial Handbook* *supra* note 7.

regulating an activity. Because special districts do not possess home rule powers, they may impose only those taxes, assessments, or fees authorized by special or general law.¹¹

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment is inconsistent with state law when (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.¹²

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹³ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹⁴ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.¹⁵

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁶ In one case, the court stated that implied preemption “is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.”¹⁷ Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.¹⁸ Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.¹⁹

State Preemption Relating to Certain Occupational Licensing

Current law expressly preempts the licensing of occupations to the state and supersedes any local government licensing of occupations, with the exception of local government licensing of occupations authorized by general law or occupational licenses imposed by a local government

¹¹ See ch. 189, F.S. See also Florida House of Representatives, *2018 - 2020 Local Government Formation Manual*, *supra* note 6, at 70.

¹² See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Mar. 24, 2023).

¹³ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

¹⁴ *Mulligan*, 934 So.2d at 1243.

¹⁵ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010). Examples of activities “expressly preempted to the state” include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.

¹⁶ See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹⁷ *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

¹⁸ *Id.*

¹⁹ *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

before January 1, 2021.²⁰ Local government occupational licensing requirements imposed by that date may not be increased or modified, meaning that local governments are not authorized to increase existing occupational license fees, and the authority of local governments to license occupations and collect license fees expires on July 1, 2023.²¹

Section 489.117(4)(a), F.S., specifically prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor licensed by the Construction Industry Licensing Board (CILB) within the Department of Professional Regulation (DBPR). It specifically precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, handyman services, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, and canvas awning and ornamental iron installation.²²

Concerns about the impact of current law on consumers and those who hold local licenses have been raised by local building officials and licensing boards, including but not limited to:

- Reduction in protection for consumers against unlicensed activity;
- Reduction in the quality and the standards required to perform contracting work in the state;
- Limitation on remedies available to consumers for incomplete or poor work quality performed by unlicensed contractors;
- Competition between formerly locally-licensed contractors and unlicensed contractors working in the same trade, without the same level of training and experience;
- Increased difficulty for the public to distinguish between qualified and unqualified businesses;
- Lack of local licensure causing previously locally-licensed contractors to rely on Division I contractors licensed as general contractors (GC), building contractors (BC), or residential contractors (RC) to pull building permits, with those contractors assuming greater liability with increased insurance coverage required, as building officials continue to require licenses to pull permits;
- Limitation on the ability of local jurisdictions to execute their mission of protecting the public, improving competency levels and providing the public access to skilled, reliable and safe tradesmen by issuing local licenses; and
- Lack of a corresponding (state) job scope for the trades for which local licensing is prohibited.²³

According to representatives from local government licensing agencies, many individuals and small businesses have faced issues due to local governments advising local licenses would no longer be issued after July 1, 2023. A recurring example was given of locally licensed specialty contractors who need a license to obtain a building permit to conduct their specialty contracting work. Without a local license and because there are very few specialty licenses available at the state level, individuals who have been working with a local license for many years will be unable

²⁰ See s. 163.211(2), F.S., as enacted by ch. 2021-214, Laws of Fla., popularly known as “HB 735.” This exception for local government licensing expires July 1, 2023.

²¹ *Id.*

²² See s. 489.117(4)(a), F.S.

²³ See Letter to the Florida Legislature from Construction Industry Licensing Board of Palm Beach County on behalf of said board and the Palm Beach County Building Code Advisory Board (Feb. 28, 2023)(on file with the Senate Committee on Regulated Industries).

to continue to obtain permits and will be unable to continue with their specialty contracting businesses.

Representatives from the Building Officials Association of Florida suggested delaying the effective date of the preemption of local licensing until July 1, 2024, to give the DBPR and affected groups time to assess options and identify specific categories of specialty contractors, possibly for state licensure.

III. Effect of Proposed Changes:

SB 1570 amends s. 163.211, F.S., relating to the preemption of occupational licensing to the state, to extend by one year, to July 1, 2024, the date that local governments may require and issue local occupation licenses, but only if such licensing was imposed by the local government before January 1, 2021.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The date for preemption of local government licensing is extended to July 1, 2024, provided the local government imposed such licensing before January 1, 2021. A person

with a local occupational license issued by a local government may be able to maintain such licensing until July 1, 2024.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.211 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Regulated Industries Committee on March 29, 2023:

The CS:

- Removes all provisions of the bill amending s. 489.117, F.S., related to local government licensing of specialty contractors for limited job scopes;
- Extends by one year, to July 1, 2024, the date that local governments may require and issue local occupation licenses, but only if such licensing was imposed by the local government before January 1, 2021.

B. Amendments:

None.



829920

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (2) of section
163.211, Florida Statutes, is amended to read:

163.211 Licensing of occupations preempted to state.—

(2) PREEMPTION OF OCCUPATIONAL LICENSING TO THE STATE.—The
licensing of occupations is expressly preempted to the state,
and this section supersedes any local government licensing



829920

requirement of occupations with the exception of the following:

(a) Any local government that imposed licenses on occupations before January 1, 2021. However, any such local government licensing of occupations expires on July 1, 2024 ~~July 1, 2023~~.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to the preemption of local occupational licensing; amending s. 163.211, F.S.; extending the date on which certain local government occupational licensing requirements expire; providing an effective date.

By Senator Hooper

21-01111D-23

20231570__

A bill to be entitled

An act relating to local occupational licensing; amending s. 489.117, F.S.; prohibiting local governments from requiring a license issued by the local government or the state for certain job scopes; prohibiting local governments from requiring a license issued by the local government or the state to obtain a building permit for such job scopes; authorizing local governments to impose local licensing requirements for certain specialty job scopes; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) of section 489.117, Florida Statutes, is amended to read:

489.117 Registration; specialty contractors.—

(4)(a) A person whose job scope does not substantially correspond to either the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o), or the job scope of one of the certified specialty contractor categories established by board rule, is not required to register with the board. A local government, as defined in s. 163.211;~~;~~

1. May not require a person to obtain a license issued by the local government or by the state for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1). For purposes of this section, job scopes for which a local government may not require a license

Page 1 of 3

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

21-01111D-23

20231570__

issued by the local government or by the state include, but are not limited to, painting; flooring; cabinetry; interior remodeling without a structural component; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; pressure washing; stuccoing; caulking; and canvas awning and ornamental iron installation. All work performed within these job scopes without a license issued by the local government or by the state must comply with all applicable local ordinances regarding such work; however, a local government may not require a license issued by the local government or by the state to obtain a building permit for these job scopes.

2. May require a person to obtain a license issued by the local government for all of the following specialty job scopes, or any part or combination thereof, if the local government imposed such a licensing requirement before January 1, 2021:

a. Aluminum or screen enclosure, with or without concrete.

b. Carpentry, with a structural component, or finish carpentry, without a structural component.

c. Concrete forming, placing, or finishing, including on or off grade.

d. Demolition.

e. Dredging and land filling.

f. Excavation and clearing.

g. Garage door installation.

h. Gasoline tank and pump.

i. Hurricane or windstorm protection.

j. Masonry, with a structural component.

k. Paving, sealing, or striping.

Page 2 of 3

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

21-01111D-23

20231570__

59 l. Pile driving.
60 m. Pool safety barrier.
61 n. Prestressed precast concrete.
62 o. Reinforcing iron and steel.
63 p. Rental apartment maintenance and repair.
64 q. Roof painting, coating, and cleaning.
65 r. Sandblasting or waterproofing.
66 s. Solar heating installation.
67 t. Specialty structure work performed by a specialty
68 contractor, as defined in s. 489.105(3)(q), or by a specialty
69 structure contractor as defined in the administrative rules of
70 the department, including gutters, metal substructures, pool
71 enclosures, pre-formed panel-post and beam roofs, roof-overs,
72 screened enclosures, screened porches, sunrooms, and windstorm
73 protective devices.
74 u. Structural iron, metals, and steel erection.
75 v. Swimming pool enclosures.
76 w. Swimming pool or spa, including commercial or
77 residential repair or service.
78 x. Tree removal and trimming.
79 y. Veneer, including aluminum or vinyl gutters, siding,
80 soffit, or fascia.
81 z. Window and door installation.
82 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 14, 2023

I respectfully request that **Senate Bill # 1570**, relating to Local Occupational Licensing, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 21



**Construction Industry
Licensing Board of Palm
Beach County (CILB)**

2300 North Jog Road,
Suite 2W-61
West Palm Beach, FL 33411
(561) 233-5525



Gerry Kelly, Chair

**Frank M. Keiser II,
Vice Chair**

Oscar Alvarez, Director

CILB Members

James L. Pickard
CMI Air Conditioning and Electrical

Damaris R. Guardado
DRG Electric Inc.

Jerry E. Wilson
Bespoke Design & Consulting

Ben B. Preston
Preston Enterprises

Gerry Kelly
Florida Power & Light Co.

Frank M. Kesier II
Puzzitiello Builders LLC.

Richard L. Kaplan
Petrillo's Plumbing Services Inc.

Mark J. Lodge
School District of Palm Beach County

Haydee I. Ullfig
My Sol Pools, Inc.

James Auld
OHLA Building Executive

James M. McKay
Independent Consulting Practice

A. Veronica Vidal
Custom Cleaning and Management
Inc.

February 28, 2023

To the Florida Legislature:

On behalf of the Palm Beach County Building Code Advisory Board and Construction Industry Licensing Board, we are writing this letter to express our concerns with what our respective boards have determined to be a flawed piece of legislation. House Bill (HB) 735, enacted in 2021 and effective this July, prohibits local contractor licensing authorities from requiring licensing for job scopes that do not substantially correspond to a job scope at the state level. Furthermore, HB 735 restricts local jurisdictions from creating new licenses or modifying its existing ones. We have held several publicly noticed meetings to discuss HB 735 and its troubling language, and we have listened to members of the public share their anxieties about the Bill's impact and what it means for their licensed businesses. Below we have compiled a list of the deficiencies, questions and concerns regarding HB 735, as expressed by members of the public (i.e. concerned citizens, licensed contractors and business owners) and our Boards during our meetings:

- HB 735 will reduce protection for customers against unlicensed activity and reduce measures of accountability.
- It will greatly reduce the quality and the standards required to perform contracting work across the State.
- It will limit remedies available to consumers for incomplete or poor work quality performed by unlicensed contractors.
- It will require formerly licensed contractors to compete with unlicensed contractors working in the same trade, without the same level of training and experience.
- It will make it more difficult for the public to distinguish between qualified and unqualified businesses.
- It will require previously licensed contractors to rely on Division I (GC, BC, or RC) contractors to pull permits, as building officials will still require licenses to pull permits.
- Division I Contractors will have to assume greater liability and purchase more insurance coverage to account for permits they otherwise would not be pulling if it were not for HB 735.



- HB 735's prohibition on creating new licenses or modifying current ones limits local jurisdictions ability to respond to updates and changes particular to their local industries and trades.
- It limits local jurisdictions ability to execute their mission of protecting the public, improving competency levels and providing the public access to skilled, reliable and safe tradesmen.
- The bill's language fails to provide a corresponding job scope for the trades that it expressly prohibits local licenses.
- The bill's language fails to provide a clear definition for "substantially correspond."
- The ambiguous language puts local jurisdictions at risk of violating the law due to no fault of their own, and it puts local licensees at risk of losing their licensed status due to misinterpretations of the law.

To address the issues enumerated above and to prevent further unintended consequences, we are requesting that the Legislature rescind HB 735 in its entirety. If the legislature is not inclined to rescind, we are alternatively in favor of amending the law in its current form to clarify and account for the ambiguities and the unanswered questions that local agencies and members of the public are grappling with. In that same vein, we are requesting that the effective date of HB 735 be extended from July 1, 2023 to July 1, 2024.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read "G. Kelly", is written over a horizontal line.

Gerald Kelly, Chairman
Construction Licensing Board

CC: Senator, Kathleen Passidomo
Senate President
409 The Capitol,
404 S. Monroe Street, Tallahassee, FL 32399-1100

Representative, Paul Renner
Florida House Speaker
420 The Capitol,
402 S. Monroe Street, Tallahassee, FL 32399-1300



Senator, Joe Gruters, Chair
Committee on Regulated Industries
525 Knott Building
404 S. Monroe Street, Tallahassee, FL 32399-1100

Representative, Bob Rommel, Chair
Commerce Committee
303 House Office Building
402 S. Monroe Street, Tallahassee, FL 32399-1300

Representative, Tyler I. Sirois, Chair
Regulatory Reform & Economic Development Subcommittee
303 House Office Building
402 S. Monroe Street, Tallahassee, FL 32399-1300



ANALYSIS

2023 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	SB 1570
BILL TITLE:	Local Occupational Licensing
BILL SPONSOR:	Hooper
EFFECTIVE DATE:	Upon becoming a law

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Rules
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Regulated Industries

SIMILAR BILLS

BILL NUMBER:	HB 1625, SB 1584,(Similar) HB 1383 (Compare)
SPONSOR:	Rep. Mooney, Sen. Hooper, Sen. Perry, Rep. Trabulsy

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	03/08/2023
LEAD AGENCY ANALYST:	Jeff Kelly, Director, Division of Professions
ADDITIONAL ANALYST(S):	Robin Jordan, Technology Brooke Adams, OGC Rules George Ayrish, DSO

LEGAL ANALYST:	Brande Miller, Deputy General Counsel - Professions
FISCAL ANALYST:	Garrett Blanton, Office of Planning and Budget

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill prohibits local governments from requiring a license for certain job scopes; prohibits local governments from requiring a license issued by a local government or state to obtain a building for certain job scopes, and authorizes local governments to impose local licensing requirements for certain specialty job scopes.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Parts I and part II of ch. 489, F.S., provide, respectively, that the Construction Industry Licensing Board (CILB) and the Electrical Contractor Licensing Board (ECLB) within the Department of Business and Professional Regulation's (department) jurisdiction license many construction professions at the state level (i.e., contractors, plumbers, roofers, electricians, air conditioning contractors, and related professions outlined in s. 489.105(3), F.S.

Section 489.105, F.S., provides the following definitions:

- Section 489.105(8), F.S., defines "certified contractor" as any contractor who possesses a certificate of competency issued by the department and who shall be allowed to contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.
- Section 489.105(10), F.S., a "registered contractor" means any contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Pursuant to s. 489.117, F.S., registration allows the registrant to engage in contracting only in the counties, municipalities, or development districts where he or she has complied with all local licensing requirements and only for the type of work covered by the registration.
- Section 489.105(6), F.S., defines "contracting" as engaging in the business of a contractor and includes, but is not limited to, the performance of any of the acts as set forth in s. 489.105(3), F.S.
- Section 489.105(3)(a) – (o) of s. 489.105(3), F.S., provide for the state regulation of specified construction professions.
- Section 489.105(3)(q), F.S., defines "specialty contractor" as a contractor whose scope of work and responsibility is limited to a particular phase of construction established in a category adopted by board rule and whose scope limited to a subset of the activities described in one of the paragraphs of this subsection.

The CILB has established, by rule, specialty contractor licenses in the following categories:

- Demolition
- Drywall
- Gas Line
- Glass and Glazing
- Industrial Facilities
- Irrigation
- Marine
- Residential Pool/Spa Servicing
- Swimming Pool Layout
- Swimming Pool Structural
- Swimming Pool Excavation
- Swimming Pool Trim
- Swimming Pool Decking
- Swimming Pool Piping
- Swimming Pool Finishes
- Specialty Structure
- Tower Specialty

Counties and municipalities also may regulate these same construction professions. Section 489.117(1)(a), requires that individuals engaged in the business of a contract in categories that fall within Section 489.105(3) (a) – (o), F.S. must be registered with the CILB for licensure categories (unless they are certified with the state). However, Section 489.117(4)(a), F.S., provides that persons whose jobs scopes do not substantially correspond to either a job scope s. 489.105(a)-(o), F.S., or one of the certified specialty categories established by board rule, is not required to register with the board. Other than these state-certified or state-registered professions, other professional trades of construction are not subject to regulation at the state level.

Prior to July 1, 2011, counties and municipalities, under local government authority, were authorized to create additional local categories for regulation within the construction industry, which included the ability to discipline such locally-regulated license holder. However, on July 1, 2021, Section 163.211, F.S., was created to expressly preempt the licensing of occupations to the state and supersede any local government licensing requirements of occupations, except those authorized by general law. Additionally, the law provided that any local government that imposed licenses on occupations before January 1, 2021 could continue with such licenses until July 1, 2023, but cannot impose additional licensing requirements for such occupations or modify such licensing.

On July 1, 2021, Section 489.117(4)(a), F.S., was also amended to specify that a local government, as defined by s. 163.211, may not require a person to obtain a license for a job scope which does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(a)-(o) and (q), or authorized in s. 489.1455(1), F.S. Job scopes for which a local government may not require a license include, but are not limited to painting; flooring; cabinetry; interior remodeling; driveway or tennis court installation; handyman services; decorative stone, tile, marble, granite, or terrazzo installation; plastering; stuccoing; caulking; and canvas awning and ornamental iron installation.

Section 489.13(5), prohibits local building departments from issuing permits to any contractor, or persons representing themselves as a contractor, who does not hold a valid certificate or registration in the appropriate category, for work that requires licensure under Part I of Chapter 489, F.S. However, local building departments are not prohibited from issuing permits to a locally licensed or certified contractor for activities that do not require licensure under this part.

Section 105.1 of the Florida Building Code states that any owner or owner's authorized agent who intends to perform work regulated by the Florida Building Code shall make application to the building official and obtain the required permit.

2. EFFECT OF THE BILL:

The bill amends s. 489.117, F.S., by clarifying that local government may not require a person to obtain a license, issued by the local government or the state, for a job scope that does not substantially correspond to the job scope of one of the contractor categories defined in s. 489.105(a)-(o), and (q), and clarifies and adds "interior remodeling without a structural component" and "pressure washing" to the list of job scopes specifically mentioned in s. 489.117, F.S. The bill adds that all work performed within these job scopes without a local or state license must comply with all applicable local ordinances regarding such work; however, local governments are prohibited from requiring licenses to obtain permits for these job scopes.

The bill further amends s. 489.117, F.S. by listing specific job scopes (or any combination thereof) for which local governments may require a license issued by a local government, IF the local government imposed such a licensing requirement before January 1, 2023. The bill specifies the following list of job scopes:

- Aluminum or screen enclosure, with or without concrete
- Carpentry, with a structural component, or finish carpentry, without a structural component
- Concrete forming, placing, or finishing, including on or off grade
- Demolition
- Dredging and land filling
- Excavation and clearing
- Garage door installation
- Gasoline tank and pump
- Hurricane or windstorm protection
- Irrigation sprinklers
- Landscaping (application of fertilizers)
- Marine work

- Masonry, with a structural component
- Paving, sealing, and striping
- Pile driving
- Pool safety barrier
- Prestressed precast concrete
- Reinforcing iron and steel
- Rental apartment maintenance and repair
- Roof painting, coating, and cleaning
- Sandblasting or waterproofing
- Solar heating installation
- Specialty structure work performed by a specialty contractor, as defined by s. 489.105(3)(q), or specialty structure contractor as defined by administrative rule in the department, including, gutters, metal substructures, pool enclosures, pre-formed panel-post and beam roofs, roof-overs, screened enclosures, screened porches, sunrooms, and windstorm protective devices.
- Structural iron, metals, and steel erection
- Swimming pool enclosures
- Swimming pool or spa, including commercial or residential repair service
- Tree removal and trimming
- Veneer, including aluminum or vinyl gutters, siding, soffit, or fascia
- Window and door installation

The bill is effective upon becoming law.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y ☐ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

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

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

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

Y ☒ N ☐

Revenues:	Indeterminate. The bill specifies certain job scopes for which local governments may or may not require a local license to perform.
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

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

Y ☒ N ☐

Revenues:	N/A
Expenditures:	Indeterminate. The bill specifies certain job scopes for which local governments may or may not require a local license to perform.
Other:	Click or tap here to enter text.

--	--

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.

N/A

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.

Click or tap here to enter text.

ADDITIONAL COMMENTS

Professions: no additional comments.

OGC Rules: Doesn't appear to have any rulemaking implications.

DSO: The impact on the division is indeterminate at this time.

Office of Planning and Budget: There is no anticipated fiscal impact to the department.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

No additional comments.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3-29-23

2b 1570

Meeting Date
3. Regulated Ind.

Bill Number or Topic
829920 DE

Committee

Amendment Barcode (if applicable)

Name

KARI HERBANK

Phone

850-566-7824

Address

215 S. Monroe St. #500

Email

kherbank@carltonfields.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

ADMIN ASSOC. OF FL, NULCA OF FL, FHBA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/29/23

The Florida Senate
APPEARANCE RECORD

SB 1570

Meeting Date

Regulated Industries

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

JEFF SCALA

Phone

(850) 487-0697

Address

100 S Monroes St

Email

jscala@flcounties.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Association of Counties

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB 1570

3/29/23

Meeting Date

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Reg Industries

Committee

Amendment Barcode (if applicable)

Name

LAURA BOEHMER

Phone

950-671-4401

Address

123 S Adams St

Email

Boehmer@thesubgroup.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

Pinellas County

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

APPEARANCE RECORD

3/29/23

Meeting Date

1570

Bill Number or Topic

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Kasey Denny

Phone 954 495 6333

Address 301 N Olive Ave.
West Palm Beach FL 33401
~~Danbury~~

Email kdenny@phcdgov.org

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:Palm Beach
County☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

3-29-23

The Florida Senate

APPEARANCE RECORD

SB 1570

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

ALUMINUM ASSOC. OF FL, FHBA, NUCA of FLORIDA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 406

INTRODUCER: Regulated Industries Committee and Senator Hooper

SUBJECT: Yacht and Ship Brokers

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 406 revises the regulation of yacht and ship brokers and salespersons by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR).

The bill defines the term “visiting broker” to mean a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under ch. 326, F.S., if the transaction is executed in its entirety with a broker or salesperson licensed in Florida. Under the bill, a visiting broker is exempt from the license requirements for a yacht and ship broker or salesperson license if the visiting broker engages in the purchase or sale of a yacht and the transaction is executed in its entirety with a broker or salesperson licensed in Florida.

The definition for the term “yacht” is revised by the bill to require that the vessel be manufactured or operated for pleasure or leased, rented, or chartered to a person other than the owner for such person’s pleasure. The bill retains current law that a yacht is a vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, but deletes the requirement for the vessel to weigh less than 300 gross tons.

The bill revises the requirements for licensure as a broker. Under the bill, an applicant for a broker license must demonstrate that he or she has been directly involved in at least four transactions during the two years preceding the date of the license application that resulted in the

sale of a yacht. Alternatively, a person may qualify for a broker license by certifying that he or she has obtained 20 hours of education, in-person or online, from a provider approved by the division regarding the state laws, rules, and ethics relating to the professional standards of practice, duties, and responsibilities of a licensee. The bill deletes the requirement that an applicant for a broker license have been licensed as a salesperson for two consecutive years.

The bill also deletes the division's authority to issue a temporary 90-day license while the Florida Department of Law Enforcement (FDLE) conducts a national criminal history analysis of an applicant for a broker or salesperson license by means of fingerprint identification. The bill maintains the requirement that an applicant for a broker or salesperson license furnish the division with a full set of fingerprints taken within the six months immediately preceding the submission of the license application.

The bill takes effect July 1, 2023.

II. Present Situation:

Division of Florida Condominiums, Timeshares and Mobile Homes

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the DBPR administers the provisions of chs. 718 and 719, F.S., for condominium and cooperative associations, respectively. The division also has jurisdiction over yacht and ship brokers and sales persons under ch. 326, F.S., timeshares under ch. 721, F.S., and mobile homes under ch. 723, F.S., and limited jurisdiction over homeowners' associations under ch. 720, F.S.

Yacht and Ship Broker Branch Office Licenses

Chapter 326, F.S., which may be cited as the "Yacht and Ship Brokers' Act,"¹ governs the licensing and regulation of yacht and shipbrokers, salespersons, and related business organizations in the state. The Yacht and Ship Broker Section, a unit of the division, processes license applications and responds to consumer complaints and inquiries by monitoring activities and compliance within the yacht brokerage industry.²

Definitions

A broker or yacht and ship broker is a "person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons."³

A salesperson is "a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker."⁴

¹ Section 326.001, F.S.

² See ch. 326, F.S., and Department of Business and Professional Regulation, *Yacht and Ship*, available at: <http://www.myfloridalicense.com/DBPR/yacht-and-ships/> (last visited Mar. 24, 2023).

³ Section 326.002(1), F.S.

⁴ Section 326.002(3), F.S.

The term “yacht” means “any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.”

Licensing

A person may not act as a yacht or ship broker or salesperson unless licensed under ch. 326, F.S.

To qualify for a broker’s license, a person must have been licensed as a salesperson for at least two consecutive years.⁵

Current law gives the division the discretion to deny an application for a broker or salesperson license if the applicant does not:

- Furnish proof satisfactory to the division that he or she is of good moral character.⁶
- Certify that he or she has never been convicted of a felony.
- Post the bond required by the Yacht and Ship Brokers' Act.
- Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.
- Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.
- Have a current license and has operated as a broker or salesperson without a license.⁷

The applicant must also deliver to the division a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of \$25,000 before any license may be issued to a broker.⁸ A salesperson must have a bond or equivalent securities in the sum of \$10,000.⁹

The fee for an initial license application for a salesperson or broker license, and for the biennial renewal of a license, is \$500. Additionally, there is a \$51 fee for national fingerprint processing during the initial application process.¹⁰

A broker is not required to complete any continuing education hours as a condition for licensure or renewal of a license.

A license is not required for:

- A person who sells his or her own yacht.
- An attorney at law for services rendered in his or her professional capacity.
- A receiver, trustee, or other person acting under a court order.
- A transaction involving the sale of a new yacht.
- A transaction involving the foreclosure of a security interest in a yacht.¹¹

⁵ Section 326.004(8), F.S.

⁶ See Fla. Admin. Code R. 61B-60.003(3)(a), providing the factors that bear upon good moral character.

⁷ Section 326.004(6), F.S.

⁸ Section 326.004(7), F.S.

⁹ Section 326.004(9), F.S.

¹⁰ Fla. Admin. Code R. 61B-60.003(4).

¹¹ Section 326.004 (3), F.S.

A broker must maintain a principal place of business in Florida and may establish branch offices in Florida.¹² The biennial fee for a branch office is \$100 for each branch office.¹³

The division is required to provide by rule for the issuance of a temporary 90-day license to an applicant while the FDLE conducts a national criminal history analysis of the applicant by means of fingerprint identification.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 20.165(2), F.S., which establishes the divisions within the DBPR, to rename the division as the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes. The bill amends multiple provisions in the Florida Statutes to conform to the renamed division.

The bill creates s. 326.002(4), F.S., to define a “visiting broker” to mean a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under ch. 326, F.S., if the transaction is executed in its entirety with a broker or salesperson licensed in Florida.

The definition for the term “yacht” is revised by the bill to require that the vessel be manufactured or operated primarily for pleasure or leased, rented, or chartered to a person other than for such person’s pleasure. The bill deletes the requirement for the vessel to weigh less than 300 gross tons.

The DBPR’s analysis for the bill notes that “[t]he term “pleasure”¹⁵ is undefined, and thus rulemaking authority is required to define such a term. Moreover, “primarily” would need to be defined by either statute or rule relative to the scope of use. Otherwise, there is no standard by which to discern whether the yacht in question is a yacht for which the division has regulatory authority.”¹⁶

The bill amends s. 326.004(3), F.S., to exempt a visiting broker from the license requirements for a broker or salesperson if the visiting broker engages in the purchase or sale of a yacht and the transaction is executed in its entirety with a broker or salesperson licensed in Florida.

The bill also amends s. 326.004(4), F.S., to require the division to deny an application for a broker or salesperson license on the basis of the grounds listed in this subsection. Current law gives the division the discretion to deny an application for a broker or salesperson license.

¹² Section 326.004 (13), F.S.

¹³ Fla. Admin. Code R. 61B-60.003(4).

¹⁴ Section 326.004 (15), F.S. See Fla. Admin. Code R. 61B-60.001(1)(k) and 61B-60.003(2)(a), relating to the requirements for a temporary license.

¹⁵ The term “pleasure” means, in part, “someone or something that provides amusement or enjoyment.” The term “recreation is a synonym for this meaning of the term. See Merriam-Webster.com, “Pleasure,” <https://www.merriam-webster.com/thesaurus/pleasure> (last visited Mar. 29, 2023).

¹⁶ Department of Business and Professional Regulation, 2023 *Agency Legislative Bill Analysis for HB 83 [identical to SB 406]* at 3 (Feb. 17, 2023) (on file with the Senate Regulated Industries Committee).

Section 326.004(8), F.S., is amended by the bill to revise the requirements for licensure as a broker. Under the bill, an applicant for a broker license must demonstrate that he or she has been directly involved in at least four transactions during the two years preceding the date of the license application that resulted in the sale of a yacht. Alternatively, a person may qualify for a broker license by certifying that he or she has obtained 20 hours of education, in-person or online, from a provider approved by the division under ss. 455.2178 and 455.2179, F.S.,¹⁷ regarding the state laws, rules, and ethics relating to the professional standards of practice, duties, and responsibilities of a licensee.

The bill also amends s. 326.004(8), F.S., to delete the requirement that an applicant for a broker license have been licensed as a salesperson for two consecutive years.

The bill deletes the authority of the division to issue a temporary 90-day license while the FDLE conducts a national criminal history analysis of the applicant by means of fingerprint identification. The bill maintains the requirement that an applicant for a broker or salesperson license furnish the division with a full set of fingerprints taken within the six months immediately preceding the submission of the application.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁷ Sections ss. 455.2178 and 455.2179, F.S., relate to the division's authority and the process for approving of continuing education providers.

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

None.

B. Private Sector Impact:

A visiting broker may engage in a transaction for the sale or purchase of a yacht under the conditions in the bill without applying for a license, including paying the \$500 license application fee.

Applicants for a broker license who opt to qualify for a license by completing 20 hours of education will incur costs related to completing those education hours.

C. Government Sector Impact:

An analysis from the division regarding the fiscal impact of CS/SB 406 is not available. However, the division may incur costs related to developing the criteria for an education provider which license applicants may use as option for qualifying as a broker.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The definition for the term “yacht” is revised by the bill to require that the vessel be manufactured or operated primarily for pleasure or leased, rented, or chartered to a person other than for such person’s pleasure. The DBPR’s analysis for the bill notes that “[t]he term “pleasure” is undefined, and thus rulemaking authority is required to define such a term. Moreover, “primarily” would need to be defined by either statute or rule relative to the scope of use. Otherwise, there is no standard by which to discern whether the yacht in question is a yacht for which the division has regulatory authority.”¹⁸ However, term “pleasure” means, in part, “someone or something that provides amusement or enjoyment,” and the term “recreation” is a synonym for this meaning of the term.¹⁹ The bill may be interpreted as defining “yacht” as a vessel used primarily for recreation.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 326.002 and 326.004.

¹⁸ *Supra* note 15.

¹⁹ See Merriam-Webster.com, “Pleasure,” <https://www.merriam-webster.com/thesaurus/pleasure> (last visited Mar. 29, 2023).

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 29, 023:

The CS deletes from the bill the amendment to s. 20.165, F.S., renaming the division as the Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes, and also deletes all conforming amendments to ss. 192.037; 213.053; 326.006; 455.116; 475.455; 509.512; 559.935; 718.103; 718.105; 718.1255; 718.501; 718.5011; 718.502; 718.503; 718.504; 718.508; 718.509; 718.608; 719.103; 719.1255; 719.501; 719.502; 719.504; 719.508; 719.608; 720.301; 721.05; 721.07; 721.08; 721.26; 721.28; 721.301; 723.003; 723.006; 723.009; and 723.0611, F.S.

The CS also revises the qualifications in the bill for a ship broker license to provide that the four transactions needed to qualify for a license must occur during the two years preceding the license application, and to provide that the education requirement is based on 20 hours of education from a division-approved provider regarding the state laws, rules, and ethics relating to the professional standards of practice, duties, and responsibilities of a licensee.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 27 - 2400

and insert:

Section 1. Present subsections (3), (4), and (5) of section 326.002, Florida Statutes, are redesignated as subsections (4), (6), and (3), respectively, a new subsection (5) is added to that section, and present subsection (4) of that section is amended, to read:

326.002 Definitions.—As used in ss. 326.001-326.006, the



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term:

(5) "Visiting broker" means a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.

(6)-(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and is:

(a) Manufactured or operated primarily for pleasure; or

(b) Leased, rented, or chartered to a person other than the owner for such person's pleasure which weighs less than 300 gross tons.

Section 2. Subsections (6), (8), and (15) of section 326.004, Florida Statutes, are amended, and paragraph (f) is added to subsection (3) of that section, to read:

326.004 Licensing.—

(3) A license is not required for:

(f) A visiting broker who engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.

(6) The division shall ~~may~~ deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the division that he or she is of good moral character.

(b) Certify that he or she has never been convicted of a felony.

(c) Post the bond required by the Yacht and Ship Brokers' Act.



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(d) Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.

(e) Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.

(f) Have a current license and has operated as a broker or salesperson without a license.

(8) A person may not be licensed as a broker unless he or she:

(a) Has been a salesperson for at least 2 consecutive years; and

(b)1. Can demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht during the 2 years preceding the date of the license application; or

2. Can certify that he or she has completed 20 hours of education, in-person or online, from a provider approved by the division, as provided under ss. 455.2178 and 455.2179, regarding the state laws, rules, and ethics relating to the professional standards of practice, duties, and responsibilities of a licensee ~~may not be licensed as a broker unless he or she has been licensed as a salesperson for at least 2 consecutive years.~~

~~(15) The division shall provide by rule for the issuance of a temporary 90-day license to an applicant while the Florida Department of Law Enforcement conducts a national criminal history analysis of the applicant by means of fingerprint identification.~~

=====
And the title is amended as follows:



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69 Delete lines 3 - 23
70 and insert:
71 326.002, F.S.; defining the term "visiting broker";
72 revising the definition of the term "yacht"; amending
73 s. 326.004, F.S.; exempting a visiting broker from
74 licensure for specified transactions; requiring,
75 rather than authorizing, the Division of Florida
76 Condominiums, Timeshares, and Mobile Homes of the
77 Department of Business and Professional Regulation to
78 deny licenses for applicants who fail to meet certain
79 requirements; revising requirements for licensure as a
80 broker; removing a provision requiring the division to
81 adopt rules relating to temporary licenses; providing
82 an effective date.

By Senator Hooper

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1 A bill to be entitled
 2 An act relating to yacht and ship brokers; amending s.
 3 20.165, F.S.; renaming the Division of Florida
 4 Condominiums, Timeshares, and Mobile Homes within the
 5 Department of Business and Professional Regulation as
 6 the Division of Florida Condominiums, Timeshares,
 7 Yacht Brokers, and Mobile Homes; amending s. 326.002,
 8 F.S.; revising and defining terms; amending s.
 9 326.004, F.S.; exempting a visiting broker from
 10 licensure for specified transactions; requiring,
 11 rather than authorizing, the division to deny licenses
 12 for applicants who fail to meet certain requirements;
 13 revising requirements for licensure as a broker;
 14 removing a provision requiring the division to adopt
 15 rules relating to temporary licenses; amending ss.
 16 192.037, 213.053, 326.006, 455.116, 475.455, 509.512,
 17 559.935, 718.103, 718.105, 718.1255, 718.501,
 18 718.5011, 718.502, 718.503, 718.504, 718.508, 718.509,
 19 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504,
 20 719.508, 719.608, 720.301, 721.05, 721.07, 721.08,
 21 721.26, 721.28, 721.301, 723.003, 723.006, 723.009,
 22 and 723.0611, F.S.; conforming provisions to changes
 23 made by the act; providing an effective date.
 24
 25 Be It Enacted by the Legislature of the State of Florida:
 26
 27 Section 1. Paragraph (e) of subsection (2) of section
 28 20.165, Florida Statutes, is amended to read:
 29 20.165 Department of Business and Professional Regulation.—

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30 There is created a Department of Business and Professional
 31 Regulation.
 32 (2) The following divisions of the Department of Business
 33 and Professional Regulation are established:
 34 (e) Division of Florida Condominiums, Timeshares, Yacht
 35 Brokers, and Mobile Homes.
 36 Section 2. Present subsections (3), (4), and (5) of section
 37 326.002, Florida Statutes, are redesignated as subsections (4),
 38 (6), and (3), respectively, a new subsection (4) is added to
 39 that section, and subsection (2) and present subsection (4) of
 40 that section are amended, to read:
 41 326.002 Definitions.—As used in ss. 326.001-326.006, the
 42 term:
 43 (2) "Division" means the Division of Florida Condominiums,
 44 Timeshares, Yacht Brokers, and Mobile Homes of the Department of
 45 Business and Professional Regulation.
 46 (4) "Visiting broker" means a person who conducts business
 47 as a broker or salesperson in another state as his or her
 48 primary profession and engages in the purchase or sale of a
 49 yacht under this act if the transaction is executed in its
 50 entirety with a broker or salesperson licensed in this state.
 51 ~~(6)-(4)~~ "Yacht" means any vessel which is propelled by sail
 52 or machinery in the water which exceeds 32 feet in length, and
 53 is:
 54 (a) Manufactured or operated primarily for pleasure; or
 55 (b) Leased, rented, or chartered to a person other than the
 56 owner for such person's pleasure which weighs less than 300
 57 gross tons.
 58 Section 3. Subsections (6), (8), and (15) of section

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326.004, Florida Statutes, are amended, and paragraph (f) is added to subsection (3) of that section, to read:

326.004 Licensing.—

(3) A license is not required for:

(f) A visiting broker who engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or a salesperson licensed in this state.

(6) The division shall ~~may~~ deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the division that he or she is of good moral character.

(b) Certify that he or she has never been convicted of a felony.

(c) Post the bond required by the Yacht and Ship Brokers' Act.

(d) Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.

(e) Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.

(f) Have a current license and has operated as a broker or salesperson without a license.

(8) A person may not be licensed as a broker unless he or she:

(a) Has been a salesperson for at least 2 consecutive years; ~~and~~

(b) 1. Can demonstrate that he or she has been directly involved in at least four transactions that resulted in the sale of a yacht; or

2. Can certify that he or she has obtained 20 continuing

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~~education credits approved by the division may not be licensed as a broker unless he or she has been licensed as a salesperson for at least 2 consecutive years.~~

~~(15) The division shall provide by rule for the issuance of a temporary 90 day license to an applicant while the Florida Department of Law Enforcement conducts a national criminal history analysis of the applicant by means of fingerprint identification.~~

Section 4. Paragraph (e) of subsection (6) of section 192.037, Florida Statutes, is amended to read:

192.037 Fee timeshare real property; taxes and assessments; escrow.—

(6)

(e) On or before May 1 of each year, a statement of receipts and disbursements of the escrow account must be filed with the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the Department of Business and Professional Regulation, which may enforce this paragraph pursuant to s. 721.26. This statement must appropriately show the amount of principal and interest in such account.

Section 5. Paragraph (i) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section, the department may provide:

(i) Information relative to chapters 212 and 326 to the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the Department of Business and Professional Regulation in the conduct of its official duties.

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117 Disclosure of information under this subsection shall be
 118 pursuant to a written agreement between the executive director
 119 and the agency. Such agencies, governmental or nongovernmental,
 120 shall be bound by the same requirements of confidentiality as
 121 the Department of Revenue. Breach of confidentiality is a
 122 misdemeanor of the first degree, punishable as provided by s.
 123 775.082 or s. 775.083.

124 Section 6. Paragraph (d) of subsection (2) and subsection
 125 (3) of section 326.006, Florida Statutes, are amended to read:
 126 326.006 Powers and duties of division.—

127 (2) The division has the power to enforce and ensure
 128 compliance with the provisions of this chapter and rules adopted
 129 under this chapter relating to the sale and ownership of yachts
 130 and ships. In performing its duties, the division has the
 131 following powers and duties:

132 (d) Notwithstanding any remedies available to a yacht or
 133 ship purchaser, if the division has reasonable cause to believe
 134 that a violation of any provision of this chapter or rule
 135 adopted under this chapter has occurred, the division may
 136 institute enforcement proceedings in its own name against any
 137 broker or salesperson or any of his or her assignees or agents,
 138 or against any unlicensed person or any of his or her assignees
 139 or agents, as follows:

140 1. The division may permit a person whose conduct or
 141 actions are under investigation to waive formal proceedings and
 142 enter into a consent proceeding whereby orders, rules, or
 143 letters of censure or warning, whether formal or informal, may
 144 be entered against the person.
 145

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146 2. The division may issue an order requiring the broker or
 147 salesperson or any of his or her assignees or agents, or
 148 requiring any unlicensed person or any of his or her assignees
 149 or agents, to cease and desist from the unlawful practice and
 150 take such affirmative action as in the judgment of the division
 151 will carry out the purposes of this chapter.

152 3. The division may bring an action in circuit court on
 153 behalf of a class of yacht or ship purchasers for declaratory
 154 relief, injunctive relief, or restitution.

155 4. The division may impose a civil penalty against a broker
 156 or salesperson or any of his or her assignees or agents, or
 157 against an unlicensed person or any of his or her assignees or
 158 agents, for any violation of this chapter or a rule adopted
 159 under this chapter. A penalty may be imposed for each day of
 160 continuing violation, but in no event may the penalty for any
 161 offense exceed \$10,000. All amounts collected must be deposited
 162 with the Chief Financial Officer to the credit of the Division
 163 of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile
 164 Homes Trust Fund. If a broker, salesperson, or unlicensed person
 165 working for a broker, fails to pay the civil penalty, the
 166 division shall issue an order suspending the broker's license
 167 until such time as the civil penalty is paid or may pursue
 168 enforcement of the penalty in a court of competent jurisdiction.
 169 The order imposing the civil penalty or the order of suspension
 170 may not become effective until 20 days after the date of such
 171 order. Any action commenced by the division must be brought in
 172 the county in which the division has its executive offices or in
 173 the county where the violation occurred.

174 (3) All fees must be deposited in the Division of Florida

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175 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust
 176 Fund as provided by law.

177 Section 7. Subsection (5) of section 455.116, Florida
 178 Statutes, is amended to read:

179 455.116 Regulation trust funds.—The following trust funds
 180 shall be placed in the department:

181 (5) Division of Florida Condominiums, Timeshares, Yacht
 182 Brokers, and Mobile Homes Trust Fund.

183 Section 8. Section 475.455, Florida Statutes, is amended to
 184 read:

185 475.455 Exchange of disciplinary information.—The
 186 commission shall inform the Division of Florida Condominiums,
 187 Timeshares, Yacht Brokers, and Mobile Homes of the Department of
 188 Business and Professional Regulation of any disciplinary action
 189 the commission has taken against any of its licensees. The
 190 division shall inform the commission of any disciplinary action
 191 the division has taken against any broker or sales associate
 192 registered with the division.

193 Section 9. Section 509.512, Florida Statutes, is amended to
 194 read:

195 509.512 Timeshare plan developer and exchange company
 196 exemption.—Sections 509.501-509.511 do not apply to a developer
 197 of a timeshare plan or an exchange company approved by the
 198 Division of Florida Condominiums, Timeshares, Yacht Brokers, and
 199 Mobile Homes pursuant to chapter 721, but only to the extent
 200 that the developer or exchange company engages in conduct
 201 regulated under chapter 721.

202 Section 10. Paragraph (h) of subsection (1) of section
 203 559.935, Florida Statutes, is amended to read:

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204 559.935 Exemptions.—

205 (1) This part does not apply to:

206 (h) A developer of a timeshare plan or an exchange company
 207 approved by the Division of Florida Condominiums, Timeshares,
 208 Yacht Brokers, and Mobile Homes pursuant to chapter 721, but
 209 only to the extent that the developer or exchange company
 210 engages in conduct regulated under chapter 721; or

211 Section 11. Subsection (17) of section 718.103, Florida
 212 Statutes, is amended to read:

213 718.103 Definitions.—As used in this chapter, the term:

214 (17) "Division" means the Division of Florida Condominiums,
 215 Timeshares, Yacht Brokers, and Mobile Homes of the Department of
 216 Business and Professional Regulation.

217 Section 12. Paragraph (c) of subsection (4) of section
 218 718.105, Florida Statutes, is amended to read:

219 718.105 Recording of declaration.—

220 (4)

221 (c) If the sum of money held by the clerk has not been paid
 222 to the developer or association as provided in paragraph (b)
 223 within 5 years after the date the declaration was originally
 224 recorded, the clerk may notify, in writing, the registered agent
 225 of the association that the sum is still available and the
 226 purpose for which it was deposited. If the association does not
 227 record the certificate within 90 days after the clerk has given
 228 the notice, the clerk may disburse the money to the developer.
 229 If the developer cannot be located, the clerk shall disburse the
 230 money to the Division of Florida Condominiums, Timeshares, Yacht
 231 Brokers, and Mobile Homes for deposit in the Division of Florida
 232 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust

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Fund.

Section 13. Subsection (4) of section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; mediation; nonbinding arbitration; applicability.—

(4) NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the Department of Business and Professional Regulation may employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. The division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this chapter. A person may not be employed by the department as a full-time arbitrator unless he or she is a member in good standing of The Florida Bar. A person may only be certified by the division to act as an arbitrator if he or she has been a member in good standing of The Florida Bar for at least 5 years and has mediated or arbitrated at least 10 disputes involving condominiums in this state during the 3 years immediately preceding the date of application, mediated or arbitrated at least 30 disputes in any subject area in this state during the 3 years immediately preceding the date of application, or attained board certification in real estate law or condominium and planned development law from The Florida Bar. Arbitrator certification is valid for 1 year. An arbitrator who does not maintain the minimum qualifications for initial certification may not have his or her certification renewed. The department may not enter into a legal services contract for an arbitration hearing under this chapter with an attorney who is

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not a certified arbitrator unless a certified arbitrator is not available within 50 miles of the dispute. The department shall adopt rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator is final; however, a decision is not deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If judicial proceedings are initiated, the final decision of the arbitrator is admissible in evidence in the trial de novo.

(a) Before the institution of court litigation, a party to a dispute, other than an election or recall dispute, shall either petition the division for nonbinding arbitration or initiate presuit mediation as provided in subsection (5). Arbitration is binding on the parties if all parties in arbitration agree to be bound in a writing filed in arbitration. The petition must be accompanied by a filing fee in the amount of \$50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

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291 Failure to include the allegations or proof of compliance with
 292 these prerequisites requires dismissal of the petition without
 293 prejudice.

294
 295 (c) Upon receipt, the petition shall be promptly reviewed
 296 by the division to determine the existence of a dispute and
 297 compliance with the requirements of paragraphs (a) and (b). If
 298 emergency relief is required and is not available through
 299 arbitration, a motion to stay the arbitration may be filed. The
 300 motion must be accompanied by a verified petition alleging facts
 301 that, if proven, would support entry of a temporary injunction,
 302 and if an appropriate motion and supporting papers are filed,
 303 the division may abate the arbitration pending a court hearing
 304 and disposition of a motion for temporary injunction.

305 (d) Upon determination by the division that a dispute
 306 exists and that the petition substantially meets the
 307 requirements of paragraphs (a) and (b) and any other applicable
 308 rules, the division shall assign or enter into a contract with
 309 an arbitrator and serve a copy of the petition upon all
 310 respondents. The arbitrator shall conduct a hearing within 30
 311 days after being assigned or entering into a contract unless the
 312 petition is withdrawn or a continuance is granted for good cause
 313 shown.

314 (e) Before or after the filing of the respondents' answer
 315 to the petition, any party may request that the arbitrator refer
 316 the case to mediation under this section and any rules adopted
 317 by the division. Upon receipt of a request for mediation, the
 318 division shall promptly contact the parties to determine if
 319 there is agreement that mediation would be appropriate. If all

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320 parties agree, the dispute must be referred to mediation.
 321 Notwithstanding a lack of an agreement by all parties, the
 322 arbitrator may refer a dispute to mediation at any time.

323 (f) Upon referral of a case to mediation, the parties must
 324 select a mutually acceptable mediator. To assist in the
 325 selection, the arbitrator shall provide the parties with a list
 326 of both volunteer and paid mediators that have been certified by
 327 the division under s. 718.501. If the parties are unable to
 328 agree on a mediator within the time allowed by the arbitrator,
 329 the arbitrator shall appoint a mediator from the list of
 330 certified mediators. If a case is referred to mediation, the
 331 parties shall attend a mediation conference, as scheduled by the
 332 parties and the mediator. If any party fails to attend a duly
 333 noticed mediation conference, without the permission or approval
 334 of the arbitrator or mediator, the arbitrator must impose
 335 sanctions against the party, including the striking of any
 336 pleadings filed, the entry of an order of dismissal or default
 337 if appropriate, and the award of costs and attorney fees
 338 incurred by the other parties. Unless otherwise agreed to by the
 339 parties or as provided by order of the arbitrator, a party is
 340 deemed to have appeared at a mediation conference by the
 341 physical presence of the party or its representative having full
 342 authority to settle without further consultation, provided that
 343 an association may comply by having one or more representatives
 344 present with full authority to negotiate a settlement and
 345 recommend that the board of administration ratify and approve
 346 such a settlement within 5 days from the date of the mediation
 347 conference. The parties shall share equally the expense of
 348 mediation, unless they agree otherwise.

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349 (g) The purpose of mediation as provided for by this
 350 section is to present the parties with an opportunity to resolve
 351 the underlying dispute in good faith, and with a minimum
 352 expenditure of time and resources.

353 (h) Mediation proceedings must generally be conducted in
 354 accordance with the Florida Rules of Civil Procedure, and these
 355 proceedings are privileged and confidential to the same extent
 356 as court-ordered mediation. Persons who are not parties to the
 357 dispute are not allowed to attend the mediation conference
 358 without the consent of all parties, with the exception of
 359 counsel for the parties and corporate representatives designated
 360 to appear for a party. If the mediator declares an impasse after
 361 a mediation conference has been held, the arbitration proceeding
 362 terminates, unless all parties agree in writing to continue the
 363 arbitration proceeding, in which case the arbitrator's decision
 364 shall be binding or nonbinding, as agreed upon by the parties;
 365 in the arbitration proceeding, the arbitrator shall not consider
 366 any evidence relating to the unsuccessful mediation except in a
 367 proceeding to impose sanctions for failure to appear at the
 368 mediation conference. If the parties do not agree to continue
 369 arbitration, the arbitrator shall enter an order of dismissal,
 370 and either party may institute a suit in a court of competent
 371 jurisdiction. The parties may seek to recover any costs and
 372 attorney fees incurred in connection with arbitration and
 373 mediation proceedings under this section as part of the costs
 374 and fees that may be recovered by the prevailing party in any
 375 subsequent litigation.

376 (i) Arbitration shall be conducted according to rules
 377 adopted by the division. The filing of a petition for

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378 arbitration shall toll the applicable statute of limitations.

379 (j) At the request of any party to the arbitration, the
 380 arbitrator shall issue subpoenas for the attendance of witnesses
 381 and the production of books, records, documents, and other
 382 evidence and any party on whose behalf a subpoena is issued may
 383 apply to the court for orders compelling such attendance and
 384 production. Subpoenas shall be served and shall be enforceable
 385 in the manner provided by the Florida Rules of Civil Procedure.
 386 Discovery may, in the discretion of the arbitrator, be permitted
 387 in the manner provided by the Florida Rules of Civil Procedure.
 388 Rules adopted by the division may authorize any reasonable
 389 sanctions except contempt for a violation of the arbitration
 390 procedural rules of the division or for the failure of a party
 391 to comply with a reasonable nonfinal order issued by an
 392 arbitrator which is not under judicial review.

393 (k) The arbitration decision shall be rendered within 30
 394 days after the hearing and presented to the parties in writing.
 395 An arbitration decision is final in those disputes in which the
 396 parties have agreed to be bound. An arbitration decision is also
 397 final if a complaint for a trial de novo is not filed in a court
 398 of competent jurisdiction in which the condominium is located
 399 within 30 days. The right to file for a trial de novo entitles
 400 the parties to file a complaint in the appropriate trial court
 401 for a judicial resolution of the dispute. The prevailing party
 402 in an arbitration proceeding shall be awarded the costs of the
 403 arbitration and reasonable attorney fees in an amount determined
 404 by the arbitrator. Such an award shall include the costs and
 405 reasonable attorney fees incurred in the arbitration proceeding
 406 as well as the costs and reasonable attorney fees incurred in

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preparing for and attending any scheduled mediation. An arbitrator's failure to render a written decision within 30 days after the hearing may result in the cancellation of his or her arbitration certification.

(l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

Section 14. Paragraph (d) of subsection (1) and paragraph (b) of subsection (2) of section 718.501, Florida Statutes, are

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amended to read:

718.501 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes.—

(1) The division may enforce and ensure compliance with this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units and complaints related to the procedural completion of milestone inspections under s. 553.899. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and unit owner access to association records under s. 718.111(12), and the procedural completion of structural integrity reserve studies under s. 718.112(2)(g).

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter 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, as follows:

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1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, bulk assignee, bulk buyer, association, developer-designated officer, or developer-designated member of the board of administration, developer-designated assignees or agents, bulk assignee-designated assignees or agents, bulk buyer-designated assignees or agents, community association manager, or community association management firm to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division carry out the purposes of this chapter. If the division finds that a developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents, is violating or is about to violate any provision of this chapter, any rule adopted or order issued by the division, or any written agreement entered into with the division, and presents an immediate danger to the public requiring an immediate final order, it may issue an emergency cease and desist order reciting with particularity the facts underlying such findings. The emergency cease and desist order is effective for 90 days. If the division begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

3. If a developer, bulk assignee, or bulk buyer fails to pay any restitution determined by the division to be owed, plus

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any accrued interest at the highest rate permitted by law, within 30 days after expiration of any appellate time period of a final order requiring payment of restitution or the conclusion of any appeal thereof, whichever is later, the division must bring an action in circuit or county court on behalf of any association, class of unit owners, lessees, or purchasers for restitution, declaratory relief, injunctive relief, or any other available remedy. The division may also temporarily revoke its acceptance of the filing for the developer to which the restitution relates until payment of restitution is made.

4. The division may petition the court for appointment of a receiver or conservator. If appointed, the receiver or conservator may take action to implement the court order to ensure the performance of the order and to remedy any breach thereof. In addition to all other means provided by law for the enforcement of an injunction or temporary restraining order, the circuit court may impound or sequester the property of a party defendant, including books, papers, documents, and related records, and allow the examination and use of the property by the division and a court-appointed receiver or conservator.

5. The division may apply to the circuit court for an order of restitution whereby the defendant in an action brought under subparagraph 4. is ordered to make restitution of those sums shown by the division to have been obtained by the defendant in violation of this chapter. At the option of the court, such restitution is payable to the conservator or receiver appointed under subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a

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523 developer, bulk assignee, or bulk buyer, or association, or its
 524 assignee or agent, for any violation of this chapter or related
 525 rule. The division may impose a civil penalty individually
 526 against an officer or board member who willfully and knowingly
 527 violates this chapter, an adopted rule, or a final order of the
 528 division; may order the removal of such individual as an officer
 529 or from the board of administration or as an officer of the
 530 association; and may prohibit such individual from serving as an
 531 officer or on the board of a community association for a period
 532 of time. The term "willfully and knowingly" means that the
 533 division informed the officer or board member that his or her
 534 action or intended action violates this chapter, a rule adopted
 535 under this chapter, or a final order of the division and that
 536 the officer or board member refused to comply with the
 537 requirements of this chapter, a rule adopted under this chapter,
 538 or a final order of the division. The division, before
 539 initiating formal agency action under chapter 120, must afford
 540 the officer or board member an opportunity to voluntarily
 541 comply, and an officer or board member who complies within 10
 542 days is not subject to a civil penalty. A penalty may be imposed
 543 on the basis of each day of continuing violation, but the
 544 penalty for any offense may not exceed \$5,000. The division
 545 shall adopt, by rule, penalty guidelines applicable to possible
 546 violations or to categories of violations of this chapter or
 547 rules adopted by the division. The guidelines must specify a
 548 meaningful range of civil penalties for each such violation of
 549 the statute and rules and must be based upon the harm caused by
 550 the violation, upon the repetition of the violation, and upon
 551 such other factors deemed relevant by the division. For example,

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552 the division may consider whether the violations were committed
 553 by a developer, bulk assignee, or bulk buyer, or owner-
 554 controlled association, the size of the association, and other
 555 factors. The guidelines must designate the possible mitigating
 556 or aggravating circumstances that justify a departure from the
 557 range of penalties provided by the rules. It is the legislative
 558 intent that minor violations be distinguished from those which
 559 endanger the health, safety, or welfare of the condominium
 560 residents or other persons and that such guidelines provide
 561 reasonable and meaningful notice to the public of likely
 562 penalties that may be imposed for proscribed conduct. This
 563 subsection does not limit the ability of the division to
 564 informally dispose of administrative actions or complaints by
 565 stipulation, agreed settlement, or consent order. All amounts
 566 collected shall be deposited with the Chief Financial Officer to
 567 the credit of the Division of Florida Condominiums, Timeshares,
 568 Yacht Brokers, and Mobile Homes Trust Fund. If a developer, bulk
 569 assignee, or bulk buyer fails to pay the civil penalty and the
 570 amount deemed to be owed to the association, the division shall
 571 issue an order directing that such developer, bulk assignee, or
 572 bulk buyer cease and desist from further operation until such
 573 time as the civil penalty is paid or may pursue enforcement of
 574 the penalty in a court of competent jurisdiction. If an
 575 association fails to pay the civil penalty, the division shall
 576 pursue enforcement in a court of competent jurisdiction, and the
 577 order imposing the civil penalty or the cease and desist order
 578 is not effective until 20 days after the date of such order. Any
 579 action commenced by the division shall be brought in the county
 580 in which the division has its executive offices or in the county

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where the violation occurred.

7. If a unit owner presents the division with proof that the unit owner has requested access to official records in writing by certified mail, and that after 10 days the unit owner again made the same request for access to official records in writing by certified mail, and that more than 10 days has elapsed since the second request and the association has still failed or refused to provide access to official records as required by this chapter, the division shall issue a subpoena requiring production of the requested records where the records are kept pursuant to s. 718.112.

8. In addition to subparagraph 6., the division may seek the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (r). The civil penalty shall be at least \$500 but no more than \$5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

(2)

(b) All fees shall be deposited in the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund as provided by law.

Section 15. Subsection (1) of section 718.5011, Florida Statutes, is amended to read:

718.5011 Ombudsman; appointment; administration.—

(1) There is created an Office of the Condominium Ombudsman, to be located for administrative purposes within the Division of Florida Condominiums, Timeshares, Yacht Brokers, and

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Mobile Homes. The functions of the office shall be funded by the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of the division, and the office shall be set within the division in the same manner as any other bureau is staffed and funded.

Section 16. Paragraph (a) of subsection (2) of section 718.502, Florida Statutes, is amended to read:

718.502 Filing prior to sale or lease.—

(2) (a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed, a developer shall not offer a contract for purchase of a unit or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes. Each filing of a proposed reservation program shall be accompanied by a filing fee of \$250. Reservations shall not be taken on a proposed condominium unless the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the

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reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

Section 17. Paragraph (b) of subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(2) NONDEVELOPER DISCLOSURE.—

(b) The prospective purchaser is also entitled to receive from the seller a copy of a governance form. Such form shall be provided by the division summarizing governance of condominium associations. In addition to such other information as the division considers helpful to a prospective purchaser in understanding association governance, the governance form shall address the following subjects:

1. The role of the board in conducting the day-to-day affairs of the association on behalf of, and in the best interests of, the owners.

2. The board's responsibility to provide advance notice of board and membership meetings.

3. The rights of owners to attend and speak at board and membership meetings.

4. The responsibility of the board and of owners with respect to maintenance of the condominium property.

5. The responsibility of the board and owners to abide by the condominium documents, this chapter, rules adopted by the division, and reasonable rules adopted by the board.

6. Owners' rights to inspect and copy association records and the limitations on such rights.

7. Remedies available to owners with respect to actions by

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the board which may be abusive or beyond the board's power and authority.

8. The right of the board to hire a property management firm, subject to its own primary responsibility for such management.

9. The responsibility of owners with regard to payment of regular or special assessments necessary for the operation of the property and the potential consequences of failure to pay such assessments.

10. The voting rights of owners.

11. Rights and obligations of the board in enforcement of rules in the condominium documents and rules adopted by the board.

The governance form shall also include the following statement in conspicuous type: "This publication is intended as an informal educational overview of condominium governance. In the event of a conflict, the provisions of chapter 718, Florida Statutes, rules adopted by the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the Department of Business and Professional Regulation, the provisions of the condominium documents, and reasonable rules adopted by the condominium association's board of administration prevail over the contents of this publication."

Section 18. Section 718.504, Florida Statutes, is amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential

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condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of \$100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will

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assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

- (1) The front cover or the first page must contain only:
 - (a) The name of the condominium.
 - (b) The following statements in conspicuous type:
 1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.
 2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.
 3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.
- (2) Summary: The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular.
- (3) A separate index of the contents and exhibits of the prospectus.
- (4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:
 - (a) Its name and location.
 - (b) A description of the condominium property, including, without limitation:

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1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, the description shall include a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the condominium. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5) (a) A statement in conspicuous type describing whether the condominium is created and being sold as fee simple interests or as leasehold interests. If the condominium is

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created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the condominium, a statement in conspicuous type stating that timeshare estates are created and being sold in units in the condominium.

(6) A description of the recreational and other commonly used facilities that will be used only by unit owners of the condominium, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f) 1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

2. A reference to the location in the disclosure materials

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813 of the lease or other agreements providing for the use of those
814 facilities; and

815 3. A description of the terms of the lease or other
816 agreements, including the length of the term; the rent payable,
817 directly or indirectly, by each unit owner, and the total rent
818 payable to the lessor, stated in monthly and annual amounts for
819 the entire term of the lease; and a description of any option to
820 purchase the property leased under any such lease, including the
821 time the option may be exercised, the purchase price or how it
822 is to be determined, the manner of payment, and whether the
823 option may be exercised for a unit owner's share or only as to
824 the entire leased property.

825 (g) A statement as to whether the developer may provide
826 additional facilities not described above; their general
827 locations and types; improvements or changes that may be made;
828 the approximate dollar amount to be expended; and the maximum
829 additional common expense or cost to the individual unit owners
830 that may be charged during the first annual period of operation
831 of the modified or added facilities.

832
833 Descriptions as to locations, areas, capacities, numbers,
834 volumes, or sizes may be stated as approximations or minimums.

835 (7) A description of the recreational and other facilities
836 that will be used in common with other condominiums, community
837 associations, or planned developments which require the payment
838 of the maintenance and expenses of such facilities, directly or
839 indirectly, by the unit owners. The description shall include,
840 but not be limited to, the following:

841 (a) Each building and facility committed to be built.

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842 (b) Facilities not committed to be built except under
843 certain conditions, and a statement of those conditions or
844 contingencies.

845 (c) As to each facility committed to be built, or which
846 will be committed to be built upon the happening of one of the
847 conditions in paragraph (b), a statement of whether it will be
848 owned by the unit owners having the use thereof or by an
849 association or other entity which will be controlled by them, or
850 others, and the location in the exhibits of the lease or other
851 document providing for use of those facilities.

852 (d) The year in which each facility will be available for
853 use by the unit owners or, in the alternative, the maximum
854 number of unit owners in the project at the time each of all of
855 the facilities is committed to be completed.

856 (e) A general description of the items of personal
857 property, and the approximate number of each item of personal
858 property, that the developer is committing to furnish for each
859 room or other facility or, in the alternative, a representation
860 as to the minimum amount of expenditure that will be made to
861 purchase the personal property for the facility.

862 (f) If there are leases, a description thereof, including
863 the length of the term, the rent payable, and a description of
864 any option to purchase.

865
866 Descriptions shall include location, areas, capacities, numbers,
867 volumes, or sizes and may be stated as approximations or
868 minimums.

869 (8) Recreation lease or associated club membership:

870 (a) If any recreational facilities or other facilities

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871 offered by the developer and available to, or to be used by,
 872 unit owners are to be leased or have club membership associated,
 873 the following statement in conspicuous type shall be included:
 874 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS
 875 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS
 876 CONDOMINIUM. There shall be a reference to the location in the
 877 disclosure materials where the recreation lease or club
 878 membership is described in detail.

879 (b) If it is mandatory that unit owners pay a fee, rent,
 880 dues, or other charges under a recreational facilities lease or
 881 club membership for the use of facilities, there shall be in
 882 conspicuous type the applicable statement:

883 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS
 884 MANDATORY FOR UNIT OWNERS; or

885 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,
 886 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

887 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS
 888 AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,
 889 RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE
 890 OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

891 4. A similar statement of the nature of the organization or
 892 the manner in which the use rights are created, and that unit
 893 owners are required to pay.

894
 895 Immediately following the applicable statement, the location in
 896 the disclosure materials where the development is described in
 897 detail shall be stated.

898 (c) If the developer, or any other person other than the
 899 unit owners and other persons having use rights in the

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900 facilities, reserves, or is entitled to receive, any rent, fee,
 901 or other payment for the use of the facilities, then there shall
 902 be the following statement in conspicuous type: THE UNIT OWNERS
 903 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR
 904 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately
 905 following this statement, the location in the disclosure
 906 materials where the rent or land use fees are described in
 907 detail shall be stated.

908 (d) If, in any recreation format, whether leasehold, club,
 909 or other, any person other than the association has the right to
 910 a lien on the units to secure the payment of assessments, rent,
 911 or other exactions, there shall appear a statement in
 912 conspicuous type in substantially the following form:

913 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 914 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE
 915 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE
 916 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

917 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO
 918 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE
 919 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL
 920 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE
 921 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

922
 923 Immediately following the applicable statement, the location in
 924 the disclosure materials where the lien or lien right is
 925 described in detail shall be stated.

926 (9) If the developer or any other person has the right to
 927 increase or add to the recreational facilities at any time after
 928 the establishment of the condominium whose unit owners have use

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rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the condominium property and of other property that will serve the unit owners of the condominium property, and a description of the management contract and all other contracts for these purposes having a term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the condominium documents and of the exhibits containing copies of such contracts.

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Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the condominium property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the condominium property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that condominium to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(13) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a unit, then a statement in conspicuous type in substantially the following form shall be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED. Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of units is described in detail shall be stated.

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987 (14) If the condominium is part of a phase project, the
 988 following information shall be stated:
 989 (a) A statement in conspicuous type in substantially the
 990 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND
 991 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following
 992 this statement, the location in the disclosure materials where
 993 the phasing is described shall be stated.
 994 (b) A summary of the provisions of the declaration which
 995 provide for the phasing.
 996 (c) A statement as to whether or not residential buildings
 997 and units which are added to the condominium may be
 998 substantially different from the residential buildings and units
 999 originally in the condominium. If the added residential
 1000 buildings and units may be substantially different, there shall
 1001 be a general description of the extent to which such added
 1002 residential buildings and units may differ, and a statement in
 1003 conspicuous type in substantially the following form shall be
 1004 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM
 1005 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
 1006 UNITS IN THE CONDOMINIUM. Immediately following this statement,
 1007 the location in the disclosure materials where the extent to
 1008 which added residential buildings and units may substantially
 1009 differ is described shall be stated.
 1010 (d) A statement of the maximum number of buildings
 1011 containing units, the maximum and minimum numbers of units in
 1012 each building, the maximum number of units, and the minimum and
 1013 maximum square footage of the units that may be contained within
 1014 each parcel of land which may be added to the condominium.
 1015 (15) If a condominium created on or after July 1, 2000, is

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1016 or may become part of a multicondominium, the following
 1017 information must be provided:
 1018 (a) A statement in conspicuous type in substantially the
 1019 following form: THIS CONDOMINIUM IS (MAY BE) PART OF A
 1020 MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL
 1021 (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following
 1022 this statement, the location in the prospectus or offering
 1023 circular and its exhibits where the multicondominium aspects of
 1024 the offering are described must be stated.
 1025 (b) A summary of the provisions in the declaration,
 1026 articles of incorporation, and bylaws which establish and
 1027 provide for the operation of the multicondominium, including a
 1028 statement as to whether unit owners in the condominium will have
 1029 the right to use recreational or other facilities located or
 1030 planned to be located in other condominiums operated by the same
 1031 association, and the manner of sharing the common expenses
 1032 related to such facilities.
 1033 (c) A statement of the minimum and maximum number of
 1034 condominiums, and the minimum and maximum number of units in
 1035 each of those condominiums, which will or may be operated by the
 1036 association, and the latest date by which the exact number will
 1037 be finally determined.
 1038 (d) A statement as to whether any of the condominiums in
 1039 the multicondominium may include units intended to be used for
 1040 nonresidential purposes and the purpose or purposes permitted
 1041 for such use.
 1042 (e) A general description of the location and approximate
 1043 acreage of any land on which any additional condominiums to be
 1044 operated by the association may be located.

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1045 (16) If the condominium is created by conversion of
 1046 existing improvements, the following information shall be
 1047 stated:

1048 (a) The information required by s. 718.616.

1049 (b) A caveat that there are no express warranties unless
 1050 they are stated in writing by the developer.

1051 (17) A summary of the restrictions, if any, to be imposed
 1052 on units concerning the use of any of the condominium property,
 1053 including statements as to whether there are restrictions upon
 1054 children and pets, and reference to the volumes and pages of the
 1055 condominium documents where such restrictions are found, or if
 1056 such restrictions are contained elsewhere, then a copy of the
 1057 documents containing the restrictions shall be attached as an
 1058 exhibit.

1059 (18) If there is any land that is offered by the developer
 1060 for use by the unit owners and that is neither owned by them nor
 1061 leased to them, the association, or any entity controlled by
 1062 unit owners and other persons having the use rights to such
 1063 land, a statement shall be made as to how such land will serve
 1064 the condominium. If any part of such land will serve the
 1065 condominium, the statement shall describe the land and the
 1066 nature and term of service, and the declaration or other
 1067 instrument creating such servitude shall be included as an
 1068 exhibit.

1069 (19) The manner in which utility and other services,
 1070 including, but not limited to, sewage and waste disposal, water
 1071 supply, and storm drainage, will be provided and the person or
 1072 entity furnishing them.

1073 (20) An explanation of the manner in which the

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1074 apportionment of common expenses and ownership of the common
 1075 elements has been determined.

1076 (21) An estimated operating budget for the condominium and
 1077 the association, and a schedule of the unit owner's expenses
 1078 shall be attached as an exhibit and shall contain the following
 1079 information:

1080 (a) The estimated monthly and annual expenses of the
 1081 condominium and the association that are collected from unit
 1082 owners by assessments.

1083 (b) The estimated monthly and annual expenses of each unit
 1084 owner for a unit, other than common expenses paid by all unit
 1085 owners, payable by the unit owner to persons or entities other
 1086 than the association, as well as to the association, including
 1087 fees assessed pursuant to s. 718.113(1) for maintenance of
 1088 limited common elements where such costs are shared only by
 1089 those entitled to use the limited common element, and the total
 1090 estimated monthly and annual expense. There may be excluded from
 1091 this estimate expenses which are not provided for or
 1092 contemplated by the condominium documents, including, but not
 1093 limited to, the costs of private telephone; maintenance of the
 1094 interior of condominium units, which is not the obligation of
 1095 the association; maid or janitorial services privately
 1096 contracted for by the unit owners; utility bills billed directly
 1097 to each unit owner for utility services to his or her unit;
 1098 insurance premiums other than those incurred for policies
 1099 obtained by the condominium; and similar personal expenses of
 1100 the unit owner. A unit owner's estimated payments for
 1101 assessments shall also be stated in the estimated amounts for
 1102 the times when they will be due.

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1103 (c) The estimated items of expenses of the condominium and
 1104 the association, except as excluded under paragraph (b),
 1105 including, but not limited to, the following items, which shall
 1106 be stated as an association expense collectible by assessments
 1107 or as unit owners' expenses payable to persons other than the
 1108 association:

- 1109 1. Expenses for the association and condominium:
- 1110 a. Administration of the association.
- 1111 b. Management fees.
- 1112 c. Maintenance.
- 1113 d. Rent for recreational and other commonly used
- 1114 facilities.
- 1115 e. Taxes upon association property.
- 1116 f. Taxes upon leased areas.
- 1117 g. Insurance.
- 1118 h. Security provisions.
- 1119 i. Other expenses.
- 1120 j. Operating capital.
- 1121 k. Reserves.
- 1122 1. Fees payable to the division.
- 1123 2. Expenses for a unit owner:
- 1124 a. Rent for the unit, if subject to a lease.
- 1125 b. Rent payable by the unit owner directly to the lessor or
- 1126 agent under any recreational lease or lease for the use of
- 1127 commonly used facilities, which use and payment is a mandatory
- 1128 condition of ownership and is not included in the common expense
- 1129 or assessments for common maintenance paid by the unit owners to
- 1130 the association.
- 1131 (d) The following statement in conspicuous type: THE BUDGET

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1132 CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN
 1133 ACCORDANCE WITH THE CONDOMINIUM ACT AND IS A GOOD FAITH ESTIMATE
 1134 ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON
 1135 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION.
 1136 ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH
 1137 CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN
 1138 THE OFFERING.

1139 (e) Each budget for an association prepared by a developer
 1140 consistent with this subsection shall be prepared in good faith
 1141 and shall reflect accurate estimated amounts for the required
 1142 items in paragraph (c) at the time of the filing of the offering
 1143 circular with the division, and subsequent increased amounts of
 1144 any item included in the association's estimated budget that are
 1145 beyond the control of the developer shall not be considered an
 1146 amendment that would give rise to rescission rights set forth in
 1147 s. 718.503(1)(a) or (b), nor shall such increases modify, void,
 1148 or otherwise affect any guarantee of the developer contained in
 1149 the offering circular or any purchase contract. It is the intent
 1150 of this paragraph to clarify existing law.

1151 (f) The estimated amounts shall be stated for a period of
 1152 at least 12 months and may distinguish between the period prior
 1153 to the time unit owners other than the developer elect a
 1154 majority of the board of administration and the period after
 1155 that date.

1156 (22) A schedule of estimated closing expenses to be paid by
 1157 a buyer or lessee of a unit and a statement of whether title
 1158 opinion or title insurance policy is available to the buyer and,
 1159 if so, at whose expense.

1160 (23) The identity of the developer and the chief operating

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1161 officer or principal directing the creation and sale of the
 1162 condominium and a statement of its and his or her experience in
 1163 this field.
 1164 (24) Copies of the following, to the extent they are
 1165 applicable, shall be included as exhibits:
 1166 (a) The declaration of condominium, or the proposed
 1167 declaration if the declaration has not been recorded.
 1168 (b) The articles of incorporation creating the association.
 1169 (c) The bylaws of the association.
 1170 (d) The ground lease or other underlying lease of the
 1171 condominium.
 1172 (e) The management agreement and all maintenance and other
 1173 contracts for management of the association and operation of the
 1174 condominium and facilities used by the unit owners having a
 1175 service term in excess of 1 year.
 1176 (f) The estimated operating budget for the condominium, the
 1177 required schedule of unit owners' expenses, and the
 1178 association's most recent structural integrity reserve study or
 1179 a statement that the association has not completed a structural
 1180 integrity reserve study.
 1181 (g) A copy of the floor plan of the unit and the plot plan
 1182 showing the location of the residential buildings and the
 1183 recreation and other common areas.
 1184 (h) The lease of recreational and other facilities that
 1185 will be used only by unit owners of the subject condominium.
 1186 (i) The lease of facilities used by owners and others.
 1187 (j) The form of unit lease, if the offer is of a leasehold.
 1188 (k) A declaration of servitude of properties serving the
 1189 condominium but not owned by unit owners or leased to them or

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1190 the association.
 1191 (l) The statement of condition of the existing building or
 1192 buildings, if the offering is of units in an operation being
 1193 converted to condominium ownership.
 1194 (m) The statement of inspection for termite damage and
 1195 treatment of the existing improvements, if the condominium is a
 1196 conversion.
 1197 (n) The form of agreement for sale or lease of units.
 1198 (o) A copy of the agreement for escrow of payments made to
 1199 the developer prior to closing.
 1200 (p) A copy of the documents containing any restrictions on
 1201 use of the property required by subsection (17).
 1202 (q) A copy of the inspector-prepared summary of the
 1203 milestone inspection report as described in ss. 553.899 and
 1204 718.301(4) (p), as applicable.
 1205 (25) Any prospectus or offering circular complying, prior
 1206 to the effective date of this act, with the provisions of former
 1207 ss. 711.69 and 711.802 may continue to be used without amendment
 1208 or may be amended to comply with this chapter.
 1209 (26) A brief narrative description of the location and
 1210 effect of all existing and intended easements located or to be
 1211 located on the condominium property other than those described
 1212 in the declaration.
 1213 (27) If the developer is required by state or local
 1214 authorities to obtain acceptance or approval of any dock or
 1215 marina facilities intended to serve the condominium, a copy of
 1216 any such acceptance or approval acquired by the time of filing
 1217 with the division under s. 718.502(1) or a statement that such
 1218 acceptance or approval has not been acquired or received.

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1219 (28) Evidence demonstrating that the developer has an
 1220 ownership, leasehold, or contractual interest in the land upon
 1221 which the condominium is to be developed.

1222 Section 19. Section 718.508, Florida Statutes, is amended
 1223 to read:

1224 718.508 Regulation by Division of Hotels and Restaurants.—
 1225 In addition to the authority, regulation, or control exercised
 1226 by the Division of Florida Condominiums, Timeshares, Yacht
 1227 Brokers, and Mobile Homes pursuant to this act with respect to
 1228 condominiums, buildings included in a condominium property are
 1229 subject to the authority, regulation, or control of the Division
 1230 of Hotels and Restaurants of the Department of Business and
 1231 Professional Regulation, to the extent provided in chapter 399.

1232 Section 20. Section 718.509, Florida Statutes, is amended
 1233 to read:

1234 718.509 Division of Florida Condominiums, Timeshares, Yacht
 1235 Brokers, and Mobile Homes Trust Fund.—

1236 (1) There is created within the State Treasury the Division
 1237 of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile
 1238 Homes Trust Fund to be used for the administration and operation
 1239 of this chapter and chapters 718, 719, 721, and 723 by the
 1240 division.

1241 (2) All moneys collected by the division from fees, fines,
 1242 or penalties or from costs awarded to the division by a court or
 1243 administrative final order shall be paid into the Division of
 1244 Florida Condominiums, Timeshares, Yacht Brokers, and Mobile
 1245 Homes Trust Fund. The Legislature shall appropriate funds from
 1246 this trust fund sufficient to carry out the provisions of this
 1247 chapter and the provisions of law with respect to each category

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1248 of business covered by the trust fund. The division shall
 1249 maintain separate revenue accounts in the trust fund for each of
 1250 the businesses regulated by the division. The division shall
 1251 provide for the proportionate allocation among the accounts of
 1252 expenses incurred by the division in the performance of its
 1253 duties with respect to each of these businesses. As part of its
 1254 normal budgetary process, the division shall prepare an annual
 1255 report of revenue and allocated expenses related to the
 1256 operation of each of these businesses which may be used to
 1257 determine fees charged by the division. This subsection shall
 1258 operate pursuant to the provisions of s. 215.20.

1259 Section 21. Paragraph (a) of subsection (2) of section
 1260 718.608, Florida Statutes, is amended to read:

1261 718.608 Notice of intended conversion; time of delivery;
 1262 content.—

1263 (2) (a) Each notice of intended conversion shall be dated
 1264 and in writing. The notice shall contain the following
 1265 statement, with the phrases of the following statement which
 1266 appear in upper case printed in conspicuous type:

1267 These apartments are being converted to condominium by
 1268 ... (name of developer) ..., the developer.

1269 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
 1270 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 1271 AGREEMENT AS FOLLOWS:

1272 a. If you have continuously been a resident of these
 1273 apartments during the last 180 days and your rental agreement
 1274 expires during the next 270 days, you may extend your rental
 1275 agreement for up to 270 days after the date of this notice.

1276 b. If you have not been a continuous resident of these

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1277 apartments for the last 180 days and your rental agreement
 1278 expires during the next 180 days, you may extend your rental
 1279 agreement for up to 180 days after the date of this notice.
 1280 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
 1281 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
 1282 DATE OF THIS NOTICE.
 1283 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
 1284 you may extend your rental agreement for up to 45 days after the
 1285 date of this notice while you decide whether to extend your
 1286 rental agreement as explained above. To do so, you must notify
 1287 the developer in writing. You will then have the full 45 days to
 1288 decide whether to extend your rental agreement as explained
 1289 above.
 1290 3. During the extension of your rental agreement you will
 1291 be charged the same rent that you are now paying.
 1292 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 1293 OF THE RENTAL AGREEMENT AS FOLLOWS:
 1294 a. If your rental agreement began or was extended or
 1295 renewed after May 1, 1980, and your rental agreement, including
 1296 extensions and renewals, has an unexpired term of 180 days or
 1297 less, you may cancel your rental agreement upon 30 days' written
 1298 notice and move. Also, upon 30 days' written notice, you may
 1299 cancel any extension of the rental agreement.
 1300 b. If your rental agreement was not begun or was not
 1301 extended or renewed after May 1, 1980, you may not cancel the
 1302 rental agreement without the consent of the developer. If your
 1303 rental agreement, including extensions and renewals, has an
 1304 unexpired term of 180 days or less, you may, however, upon 30
 1305 days' written notice cancel any extension of the rental

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1306 agreement.
 1307 5. All notices must be given in writing and sent by mail,
 1308 return receipt requested, or delivered in person to the
 1309 developer at this address: ...(name and address of
 1310 developer)....
 1311 6. If you have continuously been a resident of these
 1312 apartments during the last 180 days:
 1313 a. You have the right to purchase your apartment and will
 1314 have 45 days to decide whether to purchase. If you do not buy
 1315 the unit at that price and the unit is later offered at a lower
 1316 price, you will have the opportunity to buy the unit at the
 1317 lower price. However, in all events your right to purchase the
 1318 unit ends when the rental agreement or any extension of the
 1319 rental agreement ends or when you waive this right in writing.
 1320 b. Within 90 days you will be provided purchase information
 1321 relating to your apartment, including the price of your unit and
 1322 the condition of the building. If you do not receive this
 1323 information within 90 days, your rental agreement and any
 1324 extension will be extended 1 day for each day over 90 days until
 1325 you are given the purchase information. If you do not want this
 1326 rental agreement extension, you must notify the developer in
 1327 writing.
 1328 7. If you have any questions regarding this conversion or
 1329 the Condominium Act, you may contact the developer or the state
 1330 agency which regulates condominiums: The Division of Florida
 1331 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes,
 1332 ...(Tallahassee address and telephone number of division)....
 1333 Section 22. Subsection (17) of section 719.103, Florida
 1334 Statutes, is amended to read:

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1335 719.103 Definitions.—As used in this chapter:
 1336 (17) “Division” means the Division of Florida Condominiums,
 1337 Timeshares, Yacht Brokers, and Mobile Homes of the Department of
 1338 Business and Professional Regulation.

1339 Section 23. Section 719.1255, Florida Statutes, is amended
 1340 to read:

1341 719.1255 Alternative resolution of disputes.—The Division
 1342 of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile
 1343 Homes of the Department of Business and Professional Regulation
 1344 shall provide for alternative dispute resolution in accordance
 1345 with s. 718.1255.

1346 Section 24. Subsection (1) and paragraph (b) of subsection
 1347 (2) of section 719.501, Florida Statutes, are amended to read:

1348 719.501 Powers and duties of Division of Florida

1349 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes.—

1350 (1) The Division of Florida Condominiums, Timeshares, Yacht
 1351 Brokers, and Mobile Homes of the Department of Business and
 1352 Professional Regulation, referred to as the “division” in this
 1353 part, in addition to other powers and duties prescribed by
 1354 chapter 718, has the power to enforce and ensure compliance with
 1355 this chapter and adopted rules relating to the development,
 1356 construction, sale, lease, ownership, operation, and management
 1357 of residential cooperative units; complaints related to the
 1358 procedural completion of the structural integrity reserve
 1359 studies under s. 719.106(1)(k); and complaints related to the
 1360 procedural completion of milestone inspections under s. 553.899.
 1361 In performing its duties, the division shall have the following
 1362 powers and duties:

1363 (a) The division may make necessary public or private

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1364 investigations within or outside this state to determine whether
 1365 any person has violated this chapter or any rule or order
 1366 hereunder, to aid in the enforcement of this chapter, or to aid
 1367 in the adoption of rules or forms hereunder.

1368 (b) The division may require or permit any person to file a
 1369 statement in writing, under oath or otherwise, as the division
 1370 determines, as to the facts and circumstances concerning a
 1371 matter to be investigated.

1372 (c) For the purpose of any investigation under this
 1373 chapter, the division director or any officer or employee
 1374 designated by the division director may administer oaths or
 1375 affirmations, subpoena witnesses and compel their attendance,
 1376 take evidence, and require the production of any matter which is
 1377 relevant to the investigation, including the existence,
 1378 description, nature, custody, condition, and location of any
 1379 books, documents, or other tangible things and the identity and
 1380 location of persons having knowledge of relevant facts or any
 1381 other matter reasonably calculated to lead to the discovery of
 1382 material evidence. Upon failure by a person to obey a subpoena
 1383 or to answer questions propounded by the investigating officer
 1384 and upon reasonable notice to all persons affected thereby, the
 1385 division may apply to the circuit court for an order compelling
 1386 compliance.

1387 (d) Notwithstanding any remedies available to unit owners
 1388 and associations, if the division has reasonable cause to
 1389 believe that a violation of any provision of this chapter or
 1390 related rule has occurred, the division may institute
 1391 enforcement proceedings in its own name against a developer,
 1392 association, officer, or member of the board, or its assignees

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or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, officer, or member of the board, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association.

3. The division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

4. The division may impose a civil penalty against a developer or association, or its assignees or agents, for any violation of this chapter or related rule. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant to this chapter, or a final order of the division. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division, and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter,

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or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply with this chapter, a rule adopted under this chapter, or a final order of the division. An officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed \$5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, upon the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the cooperative residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be

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deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund. If a developer fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division may prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential cooperatives in assessing the rights, privileges, and duties pertaining thereto.

(f) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the cooperative documents governing such cooperative community.

(h) The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act, subsequent changes to this act on an annual basis, an amended

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version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules adopted thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of cooperatives which were rendered by the division during the previous year.

(j) The division shall adopt uniform accounting principles, policies, and standards to be used by all associations in the preparation and presentation of all financial statements required by this chapter. The principles, policies, and standards shall take into consideration the size of the association and the total revenue collected by the association.

(k) The division shall provide training and educational programs for cooperative association board members and unit owners. The training may, in the division's discretion, include web-based electronic media and live training and seminars in various locations throughout the state. The division may review and approve education and training programs for board members and unit owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and unit owners in a reasonable and cost-effective manner.

(l) The division shall maintain a toll-free telephone number accessible to cooperative unit owners.

(m) When a complaint is made to the division, the division shall conduct its inquiry with reasonable dispatch and with due regard to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the

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complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and shall, within 90 days after receipt of the original complaint or timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule of the division has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

(n) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of cooperative disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in arbitration proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of voluntary mediators only persons who have received at least 20 hours of training in mediation techniques or have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in county or circuit

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courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which factors must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements imposed by rules adopted by the division.

(2)

(b) All fees shall be deposited in the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund as provided by law.

Section 25. Paragraph (a) of subsection (2) of section 719.502, Florida Statutes, is amended to read:

719.502 Filing prior to sale or lease.—

(2)(a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed, a developer shall not offer a contract for purchase or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes. Each filing of a proposed reservation program shall be accompanied by a filing fee of \$250. Reservations shall not be taken on a proposed cooperative unless the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies

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contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

Section 26. Section 719.504, Florida Statutes, is amended to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which must be in accordance with a format approved by the division. This page must, in readable language: inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other

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commonly used facilities; contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which identifies the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of \$100,000; and state whether membership in a recreational facilities association is mandatory and, if so, identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one cooperative, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(1) The front cover or the first page must contain only:

(a) The name of the cooperative.

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT

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1625 REPRESENTATIONS.

1626 (2) Summary: The next page must contain all statements
1627 required to be in conspicuous type in the prospectus or offering
1628 circular.

1629 (3) A separate index of the contents and exhibits of the
1630 prospectus.

1631 (4) Beginning on the first page of the text (not including
1632 the summary and index), a description of the cooperative,
1633 including, but not limited to, the following information:

1634 (a) Its name and location.

1635 (b) A description of the cooperative property, including,
1636 without limitation:

1637 1. The number of buildings, the number of units in each
1638 building, the number of bathrooms and bedrooms in each unit, and
1639 the total number of units, if the cooperative is not a phase
1640 cooperative; or, if the cooperative is a phase cooperative, the
1641 maximum number of buildings that may be contained within the
1642 cooperative, the minimum and maximum number of units in each
1643 building, the minimum and maximum number of bathrooms and
1644 bedrooms that may be contained in each unit, and the maximum
1645 number of units that may be contained within the cooperative.

1646 2. The page in the cooperative documents where a copy of
1647 the survey and plot plan of the cooperative is located.

1648 3. The estimated latest date of completion of constructing,
1649 finishing, and equipping. In lieu of a date, a statement that
1650 the estimated date of completion of the cooperative is in the
1651 purchase agreement and a reference to the article or paragraph
1652 containing that information.

1653 (c) The maximum number of units that will use facilities in

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1654 common with the cooperative. If the maximum number of units will
1655 vary, a description of the basis for variation and the minimum
1656 amount of dollars per unit to be spent for additional
1657 recreational facilities or enlargement of such facilities. If
1658 the addition or enlargement of facilities will result in a
1659 material increase of a unit owner's maintenance expense or
1660 rental expense, if any, the maximum increase and limitations
1661 thereon shall be stated.

1662 (5) (a) A statement in conspicuous type describing whether
1663 the cooperative is created and being sold as fee simple
1664 interests or as leasehold interests. If the cooperative is
1665 created or being sold on a leasehold, the location of the lease
1666 in the disclosure materials shall be stated.

1667 (b) If timeshare estates are or may be created with respect
1668 to any unit in the cooperative, a statement in conspicuous type
1669 stating that timeshare estates are created and being sold in
1670 such specified units in the cooperative.

1671 (6) A description of the recreational and other common
1672 areas that will be used only by unit owners of the cooperative,
1673 including, but not limited to, the following:

1674 (a) Each room and its intended purposes, location,
1675 approximate floor area, and capacity in numbers of people.

1676 (b) Each swimming pool, as to its general location,
1677 approximate size and depths, approximate deck size and capacity,
1678 and whether heated.

1679 (c) Additional facilities, as to the number of each
1680 facility, its approximate location, approximate size, and
1681 approximate capacity.

1682 (d) A general description of the items of personal property

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1683 and the approximate number of each item of personal property
 1684 that the developer is committing to furnish for each room or
 1685 other facility or, in the alternative, a representation as to
 1686 the minimum amount of expenditure that will be made to purchase
 1687 the personal property for the facility.

1688 (e) The estimated date when each room or other facility
 1689 will be available for use by the unit owners.

1690 (f) 1. An identification of each room or other facility to
 1691 be used by unit owners that will not be owned by the unit owners
 1692 or the association;

1693 2. A reference to the location in the disclosure materials
 1694 of the lease or other agreements providing for the use of those
 1695 facilities; and

1696 3. A description of the terms of the lease or other
 1697 agreements, including the length of the term; the rent payable,
 1698 directly or indirectly, by each unit owner, and the total rent
 1699 payable to the lessor, stated in monthly and annual amounts for
 1700 the entire term of the lease; and a description of any option to
 1701 purchase the property leased under any such lease, including the
 1702 time the option may be exercised, the purchase price or how it
 1703 is to be determined, the manner of payment, and whether the
 1704 option may be exercised for a unit owner's share or only as to
 1705 the entire leased property.

1706 (g) A statement as to whether the developer may provide
 1707 additional facilities not described above, their general
 1708 locations and types, improvements or changes that may be made,
 1709 the approximate dollar amount to be expended, and the maximum
 1710 additional common expense or cost to the individual unit owners
 1711 that may be charged during the first annual period of operation

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1712 of the modified or added facilities.

1713
 1714 Descriptions as to locations, areas, capacities, numbers,
 1715 volumes, or sizes may be stated as approximations or minimums.

1716 (7) A description of the recreational and other facilities
 1717 that will be used in common with other cooperatives, community
 1718 associations, or planned developments which require the payment
 1719 of the maintenance and expenses of such facilities, directly or
 1720 indirectly, by the unit owners. The description shall include,
 1721 but not be limited to, the following:

1722 (a) Each building and facility committed to be built.

1723 (b) Facilities not committed to be built except under
 1724 certain conditions, and a statement of those conditions or
 1725 contingencies.

1726 (c) As to each facility committed to be built, or which
 1727 will be committed to be built upon the happening of one of the
 1728 conditions in paragraph (b), a statement of whether it will be
 1729 owned by the unit owners having the use thereof or by an
 1730 association or other entity which will be controlled by them, or
 1731 others, and the location in the exhibits of the lease or other
 1732 document providing for use of those facilities.

1733 (d) The year in which each facility will be available for
 1734 use by the unit owners or, in the alternative, the maximum
 1735 number of unit owners in the project at the time each of all of
 1736 the facilities is committed to be completed.

1737 (e) A general description of the items of personal
 1738 property, and the approximate number of each item of personal
 1739 property, that the developer is committing to furnish for each
 1740 room or other facility or, in the alternative, a representation

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as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

Descriptions shall include location, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

(a) If any recreational facilities or other common areas offered by the developer and available to, or to be used by, unit owners are to be leased or have club membership associated, the following statement in conspicuous type shall be included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS COOPERATIVE. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

(b) If it is mandatory that unit owners pay a fee, rent, dues, or other charges under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or

2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT,

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RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4. A similar statement of the nature of the organization or manner in which the use rights are created, and that unit owners are required to pay.

Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

(c) If the developer, or any other person other than the unit owners and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

(d) If, in any recreation format, whether leasehold, club, or other, any person other than the association has the right to a lien on the units to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE

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FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(9) If the developer or any other person has the right to increase or add to the recreational facilities at any time after the establishment of the cooperative whose unit owners have use rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the cooperative property and of other property that will serve the unit owners of the cooperative property, and a description of the management contract and all other contracts for these purposes having a

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term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the cooperative documents and of the exhibits containing copies of such contracts.

Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the cooperative property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the cooperative property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that cooperative to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the

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1857 location in the disclosure materials where this right to control
1858 is described in detail shall be stated.

1859 (13) If there are any restrictions upon the sale, transfer,
1860 conveyance, or leasing of a unit, then a statement in
1861 conspicuous type in substantially the following form shall be
1862 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR
1863 CONTROLLED. Immediately following this statement, the location
1864 in the disclosure materials where the restriction, limitation,
1865 or control on the sale, lease, or transfer of units is described
1866 in detail shall be stated.

1867 (14) If the cooperative is part of a phase project, the
1868 following shall be stated:

1869 (a) A statement in conspicuous type in substantially the
1870 following form shall be included: THIS IS A PHASE COOPERATIVE.
1871 ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE.
1872 Immediately following this statement, the location in the
1873 disclosure materials where the phasing is described shall be
1874 stated.

1875 (b) A summary of the provisions of the declaration
1876 providing for the phasing.

1877 (c) A statement as to whether or not residential buildings
1878 and units which are added to the cooperative may be
1879 substantially different from the residential buildings and units
1880 originally in the cooperative, and, if the added residential
1881 buildings and units may be substantially different, there shall
1882 be a general description of the extent to which such added
1883 residential buildings and units may differ, and a statement in
1884 conspicuous type in substantially the following form shall be
1885 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE

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1886 MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND
1887 UNITS IN THE COOPERATIVE. Immediately following this statement,
1888 the location in the disclosure materials where the extent to
1889 which added residential buildings and units may substantially
1890 differ is described shall be stated.

1891 (d) A statement of the maximum number of buildings
1892 containing units, the maximum and minimum number of units in
1893 each building, the maximum number of units, and the minimum and
1894 maximum square footage of the units that may be contained within
1895 each parcel of land which may be added to the cooperative.

1896 (15) If the cooperative is created by conversion of
1897 existing improvements, the following information shall be
1898 stated:

1899 (a) The information required by s. 719.616.

1900 (b) A caveat that there are no express warranties unless
1901 they are stated in writing by the developer.

1902 (16) A summary of the restrictions, if any, to be imposed
1903 on units concerning the use of any of the cooperative property,
1904 including statements as to whether there are restrictions upon
1905 children and pets, and reference to the volumes and pages of the
1906 cooperative documents where such restrictions are found, or if
1907 such restrictions are contained elsewhere, then a copy of the
1908 documents containing the restrictions shall be attached as an
1909 exhibit.

1910 (17) If there is any land that is offered by the developer
1911 for use by the unit owners and that is neither owned by them nor
1912 leased to them, the association, or any entity controlled by
1913 unit owners and other persons having the use rights to such
1914 land, a statement shall be made as to how such land will serve

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the cooperative. If any part of such land will serve the cooperative, the statement shall describe the land and the nature and term of service, and the cooperative documents or other instrument creating such servitude shall be included as an exhibit.

(18) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

(19) An explanation of the manner in which the apportionment of common expenses and ownership of the common areas have been determined.

(20) An estimated operating budget for the cooperative and the association, and a schedule of the unit owner's expenses shall be attached as an exhibit and shall contain the following information:

(a) The estimated monthly and annual expenses of the cooperative and the association that are collected from unit owners by assessments.

(b) The estimated monthly and annual expenses of each unit owner for a unit, other than assessments payable to the association, payable by the unit owner to persons or entities other than the association, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses that are personal to unit owners, which are not uniformly incurred by all unit owners, or which are not provided for or contemplated by the cooperative documents, including, but not limited to, the costs of private telephone; maintenance of the interior of cooperative units, which is not the obligation

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of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the cooperative; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the cooperative and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and cooperative:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used areas.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

l. Fee payable to the division.

2. Expenses for a unit owner:

a. Rent for the unit, if subject to a lease.

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b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used areas, which use and payment are a mandatory condition of ownership and are not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The following statement in conspicuous type: THE BUDGET CONTAINED IN THIS OFFERING CIRCULAR HAS BEEN PREPARED IN ACCORDANCE WITH THE COOPERATIVE ACT AND IS A GOOD FAITH ESTIMATE ONLY AND REPRESENTS AN APPROXIMATION OF FUTURE EXPENSES BASED ON FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF ITS PREPARATION. ACTUAL COSTS OF SUCH ITEMS MAY EXCEED THE ESTIMATED COSTS. SUCH CHANGES IN COST DO NOT CONSTITUTE MATERIAL ADVERSE CHANGES IN THE OFFERING.

(e) Each budget for an association prepared by a developer consistent with this subsection shall be prepared in good faith and shall reflect accurate estimated amounts for the required items in paragraph (c) at the time of the filing of the offering circular with the division, and subsequent increased amounts of any item included in the association's estimated budget that are beyond the control of the developer shall not be considered an amendment that would give rise to rescission rights set forth in s. 719.503(1)(a) or (b), nor shall such increases modify, void, or otherwise affect any guarantee of the developer contained in the offering circular or any purchase contract. It is the intent of this paragraph to clarify existing law.

(f) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a

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majority of the board of administration and the period after that date.

(21) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit and a statement of whether title opinion or title insurance policy is available to the buyer and, if so, at whose expense.

(22) The identity of the developer and the chief operating officer or principal directing the creation and sale of the cooperative and a statement of its and his or her experience in this field.

(23) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(a) The cooperative documents, or the proposed cooperative documents if the documents have not been recorded.

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

(d) The ground lease or other underlying lease of the cooperative.

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the cooperative and facilities used by the unit owners having a service term in excess of 1 year.

(f) The estimated operating budget for the cooperative and the required schedule of unit owners' expenses.

(g) A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

(h) The lease of recreational and other facilities that will be used only by unit owners of the subject cooperative.

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- 2031 (i) The lease of facilities used by owners and others.
- 2032 (j) The form of unit lease, if the offer is of a leasehold.
- 2033 (k) A declaration of servitude of properties serving the
- 2034 cooperative but not owned by unit owners or leased to them or
- 2035 the association.
- 2036 (l) The statement of condition of the existing building or
- 2037 buildings, if the offering is of units in an operation being
- 2038 converted to cooperative ownership.
- 2039 (m) The statement of inspection for termite damage and
- 2040 treatment of the existing improvements, if the cooperative is a
- 2041 conversion.
- 2042 (n) The form of agreement for sale or lease of units.
- 2043 (o) A copy of the agreement for escrow of payments made to
- 2044 the developer prior to closing.
- 2045 (p) A copy of the documents containing any restrictions on
- 2046 use of the property required by subsection (16).
- 2047 (q) A copy of the inspector-prepared summary of the
- 2048 milestone inspection report as described in ss. 553.899 and
- 2049 719.301(4)(p), if applicable.
- 2050 (r) The association's most recent structural integrity
- 2051 reserve study or a statement that the association has not
- 2052 completed a structural integrity reserve study.
- 2053 (24) Any prospectus or offering circular complying with the
- 2054 provisions of former ss. 711.69 and 711.802 may continue to be
- 2055 used without amendment, or may be amended to comply with this
- 2056 chapter.
- 2057 (25) A brief narrative description of the location and
- 2058 effect of all existing and intended easements located or to be
- 2059 located on the cooperative property other than those in the

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- 2060 declaration.
- 2061 (26) If the developer is required by state or local
- 2062 authorities to obtain acceptance or approval of any dock or
- 2063 marina facility intended to serve the cooperative, a copy of
- 2064 such acceptance or approval acquired by the time of filing with
- 2065 the division pursuant to s. 719.502 or a statement that such
- 2066 acceptance has not been acquired or received.
- 2067 (27) Evidence demonstrating that the developer has an
- 2068 ownership, leasehold, or contractual interest in the land upon
- 2069 which the cooperative is to be developed.
- 2070 Section 27. Section 719.508, Florida Statutes, is amended
- 2071 to read:
- 2072 719.508 Regulation by Division of Hotels and Restaurants.—
- 2073 In addition to the authority, regulation, or control exercised
- 2074 by the Division of Florida Condominiums, Timeshares, Yacht
- 2075 Brokers, and Mobile Homes pursuant to this act with respect to
- 2076 cooperatives, buildings included in a cooperative property shall
- 2077 be subject to the authority, regulation, or control of the
- 2078 Division of Hotels and Restaurants of the Department of Business
- 2079 and Professional Regulation, to the extent provided in chapters
- 2080 399 and 509.
- 2081 Section 28. Paragraph (a) of subsection (2) of section
- 2082 719.608, Florida Statutes, is amended to read:
- 2083 719.608 Notice of intended conversion; time of delivery;
- 2084 content.—
- 2085 (2)(a) Each notice of intended conversion shall be dated
- 2086 and in writing. The notice shall contain the following
- 2087 statement, with the phrases of the following statement which
- 2088 appear in upper case printed in conspicuous type:

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2089 These apartments are being converted to cooperative by
 2090 ...(name of developer)..., the developer.

2091 1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF
 2092 YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL
 2093 AGREEMENT AS FOLLOWS:

2094 a. If you have continuously been a resident of these
 2095 apartments during the last 180 days and your rental agreement
 2096 expires during the next 270 days, you may extend your rental
 2097 agreement for up to 270 days after the date of this notice.

2098 b. If you have not been a continuous resident of these
 2099 apartments for the last 180 days and your rental agreement
 2100 expires during the next 180 days, you may extend your rental
 2101 agreement for up to 180 days after the date of this notice.

2102 c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU
 2103 MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE
 2104 DATE OF THIS NOTICE.

2105 2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS,
 2106 you may extend your rental agreement for up to 45 days after the
 2107 date of this notice while you decide whether to extend your
 2108 rental agreement as explained above. To do so, you must notify
 2109 the developer in writing. You will then have the full 45 days to
 2110 decide whether to extend your rental agreement as explained
 2111 above.

2112 3. During the extension of your rental agreement you will
 2113 be charged the same rent that you are now paying.

2114 4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION
 2115 OF THE RENTAL AGREEMENT AS FOLLOWS:

2116 a. If your rental agreement began or was extended or
 2117 renewed after May 1, 1980, and your rental agreement, including

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2118 extensions and renewals, has an unexpired term of 180 days or
 2119 less, you may cancel your rental agreement upon 30 days' written
 2120 notice and move. Also, upon 30 days' written notice, you may
 2121 cancel any extension of the rental agreement.

2122 b. If your rental agreement was not begun or was not
 2123 extended or renewed after May 1, 1980, you may not cancel the
 2124 rental agreement without the consent of the developer. If your
 2125 rental agreement, including extensions and renewals, has an
 2126 unexpired term of 180 days or less, you may, however, upon 30
 2127 days' written notice cancel any extension of the rental
 2128 agreement.

2129 5. All notices must be given in writing and sent by mail,
 2130 return receipt requested, or delivered in person to the
 2131 developer at this address: ...(name and address of
 2132 developer)....

2133 6. If you have continuously been a resident of these
 2134 apartments during the last 180 days:

2135 a. You have the right to purchase your apartment and will
 2136 have 45 days to decide whether to purchase. If you do not buy
 2137 the unit at that price and the unit is later offered at a lower
 2138 price, you will have the opportunity to buy the unit at the
 2139 lower price. However, in all events your right to purchase the
 2140 unit ends when the rental agreement or any extension of the
 2141 rental agreement ends or when you waive this right in writing.

2142 b. Within 90 days you will be provided purchase information
 2143 relating to your apartment, including the price of your unit and
 2144 the condition of the building. If you do not receive this
 2145 information within 90 days, your rental agreement and any
 2146 extension will be extended 1 day for each day over 90 days until

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2147 you are given the purchase information. If you do not want this
2148 rental agreement extension, you must notify the developer in
2149 writing.

2150 7. If you have any questions regarding this conversion or
2151 the Cooperative Act, you may contact the developer or the state
2152 agency which regulates cooperatives: The Division of Florida
2153 Condominiums, Timeshares, Yacht Brokers, and Mobile Homes,
2154 ... (Tallahassee address and telephone number of division)....

2155 Section 29. Subsection (7) of section 720.301, Florida
2156 Statutes, is amended to read:

2157 720.301 Definitions.—As used in this chapter, the term:

2158 (7) "Division" means the Division of Florida Condominiums,
2159 Timeshares, Yacht Brokers, and Mobile Homes in the Department of
2160 Business and Professional Regulation.

2161 Section 30. Subsection (11) of section 721.05, Florida
2162 Statutes, is amended to read:

2163 721.05 Definitions.—As used in this chapter, the term:

2164 (11) "Division" means the Division of Florida Condominiums,
2165 Timeshares, Yacht Brokers, and Mobile Homes of the Department of
2166 Business and Professional Regulation.

2167 Section 31. Paragraph (d) of subsection (2) of section
2168 721.07, Florida Statutes, is amended to read:

2169 721.07 Public offering statement.—Prior to offering any
2170 timeshare plan, the developer must submit a filed public
2171 offering statement to the division for approval as prescribed by
2172 s. 721.03, s. 721.55, or this section. Until the division
2173 approves such filing, any contract regarding the sale of that
2174 timeshare plan is subject to cancellation by the purchaser
2175 pursuant to s. 721.10.

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2176 (2)

2177 (d) A developer shall have the authority to deliver to
2178 purchasers any purchaser public offering statement that is not
2179 yet approved by the division, provided that the following shall
2180 apply:

2181 1. At the time the developer delivers an unapproved
2182 purchaser public offering statement to a purchaser pursuant to
2183 this paragraph, the developer shall deliver a fully completed
2184 and executed copy of the purchase contract required by s. 721.06
2185 that contains the following statement in conspicuous type in
2186 substantially the following form which shall replace the
2187 statements required by s. 721.06(1)(g):

2188 *The developer is delivering to you a public offering statement*
2189 *that has been filed with but not yet approved by the Division of*
2190 *Florida Condominiums, Timeshares, Yacht Brokers, and Mobile*
2191 *Homes. Any revisions to the unapproved public offering statement*
2192 *you have received must be delivered to you, but only if the*
2193 *revisions materially alter or modify the offering in a manner*
2194 *adverse to you. After the division approves the public offering*
2195 *statement, you will receive notice of the approval from the*
2196 *developer and the required revisions, if any.*

2197
2198
2199 *Your statutory right to cancel this transaction without any*
2200 *penalty or obligation expires 10 calendar days after the date*
2201 *you signed your purchase contract or the date on which you*
2202 *receive the last of all documents required to be given to you*
2203 *pursuant to section 721.07(6), Florida Statutes, or 10 calendar*
2204 *days after you receive revisions required to be delivered to*

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you, if any, whichever is later. If you decide to cancel this contract, you must notify the seller in writing of your intent to cancel. Your notice of cancellation shall be effective upon the date sent and shall be sent to ...(Name of Seller)... at ...(Address of Seller).... Any attempt to obtain a waiver of your cancellation right is void and of no effect. While you may execute all closing documents in advance, the closing, as evidenced by delivery of the deed or other document, before expiration of your 10-day cancellation period, is prohibited.

2. After receipt of approval from the division and prior to closing, if any revisions made to the documents contained in the purchaser public offering statement materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser such revisions, together with a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you, together with the enclosed revisions, has been approved by the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes. Accordingly, your cancellation right expires 10 calendar days after you sign your purchase contract or 10 calendar days after you receive these revisions, whichever is later. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

3. After receipt of approval from the division and prior to

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closing, if no revisions have been made to the documents contained in the unapproved purchaser public offering statement, or if such revisions do not materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you has been approved by the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes. Revisions made to the unapproved public offering statement, if any, are not required to be delivered to you or are not deemed by the developer, in its opinion, to materially alter or modify the offering in a manner that is adverse to you. Accordingly, your cancellation right expired 10 days after you signed your purchase contract. A complete copy of the approved public offering statement is available through the managing entity for inspection as part of the books and records of the plan. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

Section 32. Subsection (8) of section 721.08, Florida Statutes, is amended to read:

721.08 Escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title.—

(8) An escrow agent holding escrowed funds pursuant to this chapter that have not been claimed for a period of 5 years after the date of deposit shall make at least one reasonable attempt to deliver such unclaimed funds to the purchaser who submitted such funds to escrow. In making such attempt, an escrow agent is

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entitled to rely on a purchaser's last known address as set forth in the books and records of the escrow agent and is not required to conduct any further search for the purchaser. If an escrow agent's attempt to deliver unclaimed funds to any purchaser is unsuccessful, the escrow agent may deliver such unclaimed funds to the division and the division shall deposit such unclaimed funds in the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund, 30 days after giving notice in a publication of general circulation in the county in which the timeshare property containing the purchaser's timeshare interest is located. The purchaser may claim the same at any time prior to the delivery of such funds to the division. After delivery of such funds to the division, the purchaser shall have no more rights to the unclaimed funds. The escrow agent shall not be liable for any claims from any party arising out of the escrow agent's delivery of the unclaimed funds to the division pursuant to this section.

Section 33. Paragraph (e) of subsection (5) of section 721.26, Florida Statutes, is amended to read:

721.26 Regulation by division.—The division has the power to enforce and ensure compliance with this chapter, except for parts III and IV, using the powers provided in this chapter, as well as the powers prescribed in chapters 718 and 719. In performing its duties, the division shall have the following powers and duties:

(5) Notwithstanding any remedies available to purchasers, if the division has reasonable cause to believe that a violation of this chapter, or of any division rule adopted or order issued pursuant to this chapter, has occurred, the division may

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institute enforcement proceedings in its own name against any regulated party, as such term is defined in this subsection:

(e)1. The division may impose a penalty against any regulated party for a violation of this chapter or any rule adopted thereunder. A penalty may be imposed on the basis of each day of continuing violation, but in no event may the penalty for any offense exceed \$10,000. All accounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund.

2.a. If a regulated party fails to pay a penalty, the division shall thereupon issue an order directing that such regulated party cease and desist from further operation until such time as the penalty is paid; or the division may pursue enforcement of the penalty in a court of competent jurisdiction.

b. If an owners' association or managing entity fails to pay a civil penalty, the division may pursue enforcement in a court of competent jurisdiction.

Section 34. Section 721.28, Florida Statutes, is amended to read:

721.28 Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund.—All funds collected by the division and any amounts paid as fees or penalties under this chapter shall be deposited in the State Treasury to the credit of the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund created by s. 718.509.

Section 35. Paragraph (c) of subsection (1) of section 721.301, Florida Statutes, is amended to read:

721.301 Florida Timesharing, Vacation Club, and Hospitality

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Program.—

(1)

(c) The director may designate funds from the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund, not to exceed \$50,000 annually, to support the projects and proposals undertaken pursuant to paragraph (b). All state trust funds to be expended pursuant to this section must be matched equally with private moneys and shall comprise no more than half of the total moneys expended annually.

Section 36. Subsection (2) and paragraph (a) of subsection (7) of section 723.003, Florida Statutes, are amended to read:

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

(2) "Division" means the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes of the Department of Business and Professional Regulation.

(7) (a) "Mediation" means a process whereby a mediator appointed by the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes, or mutually selected by the parties, acts to encourage and facilitate the resolution of a dispute. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable agreement.

Section 37. Paragraph (e) of subsection (5) of section 723.006, Florida Statutes, is amended to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(5) Notwithstanding any remedies available to mobile home owners, mobile home park owners, and homeowners' associations, if the division has reasonable cause to believe that a violation

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of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against a developer, mobile home park owner, or homeowners' association, or its assignee or agent, as follows:

(e)1. The division may impose a civil penalty against a mobile home park owner or homeowners' association, or its assignee or agent, for any violation of this chapter, a properly adopted park rule or regulation, or a rule adopted pursuant hereto. A penalty may be imposed on the basis of each separate violation and, if the violation is a continuing one, for each day of continuing violation, but in no event may the penalty for each separate violation or for each day of continuing violation exceed \$5,000. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes Trust Fund.

2. If a violator fails to pay the civil penalty, the division shall thereupon issue an order directing that such violator cease and desist from further violation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If a homeowners' association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in which the violation occurred.

Section 38. Section 723.009, Florida Statutes, is amended

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to read:

723.009 Division of Florida Condominiums, Timeshares, Yacht
Brokers, and Mobile Homes Trust Fund.—All proceeds from the
fees, penalties, and fines imposed pursuant to this chapter
shall be deposited into the Division of Florida Condominiums,
Timeshares, Yacht Brokers, and Mobile Homes Trust Fund created
by s. 718.509. Moneys in this fund, as appropriated by the
Legislature pursuant to chapter 216, may be used to defray the
expenses incurred by the division in administering the
provisions of this chapter.

Section 39. Paragraph (c) of subsection (2) of section
723.0611, Florida Statutes, is amended to read:

723.0611 Florida Mobile Home Relocation Corporation.—
(2)

(c) The corporation shall, for purposes of s. 768.28, be
considered an agency of the state. Agents or employees of the
corporation, members of the board of directors of the
corporation, or representatives of the Division of Florida
Condominiums, Timeshares, Yacht Brokers, and Mobile Homes shall
be considered officers, employees, or agents of the state, and
actions against them and the corporation shall be governed by s.
768.28.

Section 40. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: February 14, 2023

I respectfully request that **Senate Bill # 406**, relating to Yacht and Ship Brokers, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 21



ANALYSIS

2022 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	HB 83
BILL TITLE:	An act relating to the yacht and ship brokers;
BILL SPONSOR:	Representative LaMarca
EFFECTIVE DATE:	07/01/2023

COMMITTEES OF REFERENCE

1) Regulatory Reform & Economic Development Subcommittee
2) State Administration & Technology Appropriations Subcommittee
3) Commerce Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Regulatory Reform & Economic Development Subcommittee

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	SB 406
SPONSOR:	Sen. Hooper

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 17, 2023
LEAD AGENCY ANALYST:	Chevonne Christian, CTMH Director
ADDITIONAL ANALYST(S):	W. Justin Vogel (for OGC Rules) Tracy Dixon, Service Operations Robin Jordan, Technology

LEGAL ANALYST:	Daniel Brackett, OGC
FISCAL ANALYST:	Garrett Blanton, Office of Planning and Budget

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

HB 83 amends Chapters 326, 718, 719, 721, 723 and 20, Florida Statutes by:

- Renaming the Division of Florida Condominiums, Timeshares and Mobile Homes as the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes.
- Revising the definition of “yacht” to add that, in order to be classified as a yacht, the vessel must be manufactured or operated primarily for pleasure; or leased, rented or chartered to someone, other than the owner, for the other person’s pleasure.
- Defining a visiting broker as a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.
- Allowing a broker or salesperson in another state who does not have a Florida license to transact a purchase or sale of a yacht, so long as the transaction is executed in its entirety with a broker or salesperson licensed in this state.
- Requiring the division to deny an application for licensure if the applicant does not submit all required documentation.
- Requiring that in order to be licensed as a broker in the State of Florida, an applicant must have a salesperson’s license for two consecutive years and certify that he/she has been directly involved in at least four transactions resulting in the sale of a yacht or that he/she obtained 20 continuing education credits, approved by the division.
- Removing the ability to issue a temporary 90 day license to an applicant while the Florida Department of Law Enforcement conducts a national criminal history analysis.
- This bill, if enacted, will take effect on July 1, 2023.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Chapter 326, F.S., also known as the Yacht and Ship Brokers Act, defines a yacht as a vessel which is propelled in the water by sail or machinery which exceeds 32 feet in length and weighs less than 300 gross tons; rule 61B-60.001(1), F.A.C., identifies foreign brokers or salespersons as individuals who conduct business outside of Florida and who are not licensed by the division; rule 61B-60.001(3), F.A.C., states that a broker or salesperson licensed by the division will be in violation of Ch. 326, F.S., if they transact business with unlicensed brokers or salespersons otherwise subject to Ch. 326, F.S. The Act provides the division the option to deny a license to an applicant whose application is deficient; does not allow a person to be licensed as a broker unless he or she has been a salesperson and a licensed salesperson for at least 2 consecutive years; and requires the division, provided by statute and rule, to issue a 90 day temporary license to an applicant while the Florida Department of Law Enforcement conducts a national criminal history analysis. There are currently no educational requirements set forth by the act and there are no approved courses for continuing educational credits.

No education certification is required for licensure.

2. EFFECT OF THE BILL:

The name of the Division shall be amended to reflect the Division of Florida Condominiums, Timeshares, Yacht Brokers, and Mobile Homes. This change will be reflected across all chapters of the Florida Statutes that reference the Division of Florida Condominiums, Timeshares and Mobile Homes. This is highly impactful, in that all division and department correspondence, materials, paraphernalia and the like, as well as updating all Florida Administrative Code rules, would require revisions or repurchase altogether. This would also be a tedious process for which we would need staff to dedicate their time – taking time away from their primary day to day functions and responsibilities managing condominium filings and cases.

The definition of a yacht is amended to add that, in order to be classified as a yacht, the vessel must be manufactured or operated primarily for pleasure; or leased, rented or chartered to someone, other than the owner, for the other person's pleasure. The maximum tonnage requirement for a yacht has been removed. The term "pleasure" is undefined, and thus rulemaking authority is required to define such a term. Moreover, "primarily" would need to be defined by either statute or rule relative to the scope of use. Otherwise, there is no standard by which to discern whether the yacht in question is a yacht for which the division has regulatory authority.

The term "visiting broker" is defined as a person who conducts business as a broker or salesperson in another state as his or her primary profession and engages in the purchase or sale of a yacht under this act if the transaction is executed in its entirety with a broker or salesperson licensed in this state.

Based on the bill language, a licensed or an unlicensed broker or salesperson, in another state, would be able to engage in the purchase or sale of a yacht in Florida only if the transaction is entirely executed through a licensed Florida broker or salesperson. Accordingly, regardless of the extent to which the non-Florida licensed broker is responsible for committing a violation of ch. 326, F.S., the Florida licensed broker or salesperson would be the only licensee for which the division would have the regulatory jurisdiction to administratively penalize.

The bill also provides that the division's issuance of a 90-day temporary license pending a criminal background check would no longer be required. The division would need to update the Florida Administrative Code to reflect this proposed amendment.

The bill goes on to indicate that a person may not be licensed as a broker unless the person is a licensed salesperson for two consecutive years and demonstrates direct involvement in at least four yacht sales transactions or certifies that he or she has obtained 20 continuing education credits, which have been approved by the division. It is unclear whether these requirements are recurring for each licensure period or merely once and only in order to become initially licensed. Other licensed professionals, such as real estate brokers, have a pre-education requirement in addition to a continuing education requirement. Currently, there are no pre-education requirements for yacht and ship salespersons or brokers for initial licensure. Additionally, it is unclear as to the length of time regarding the provision indicating, *demonstrates direct involvement in at least four yacht sales transactions*. Is this four transactions ever in their professional careers? Is this during a shorter timeframe? Also, how does a licensee know what types of evidence may demonstrate this? The type of evidence that can be used may be promulgated by rule, if the division is provided with rulemaking authority.

Furthermore, the process for the 20 continuing education credit requirement is unclear.

- One interpretation is that, if there is now a continuing education requirement, the division would need to create core curricula or, at the very least, curricula topics to establish such education requirements, as there is no existing requirement or standard that has been set. Accordingly, rulemaking authority would be necessary to specifically delineate the education topics or criteria, unless the bill will be amended to do so statutorily.
- The division would also require at least one dedicated staff member whose role would be to create and offer for presentation, these education courses, on a continuing basis because yacht and ship salespersons' licensing renewals and/or upgrades occur throughout the year, on a rolling basis. It is unclear if there was an intention to require an additional cost for licensees to receive the continuing education credits. But, this will create an increase cost to the division with regard to dedicating a specific yacht and ship education expert.
- Another interpretation is that the division would be required to receive, at minimum, or review, at most, certificates submitted from the licensee or the curricula provider, establishing that the 20 continuing education credits have been satisfied by the licensee. Moreover, there is no guidance as to what might be used to substantiate this educational credit requirement has been satisfied by a licensee and whether a mere certificate must be shown or whether it's required that the curriculum taken be submitted to the division, along with proof of satisfactory completion. Importantly, the bill does not include information as to what standard the division's receipt or review of documents would be based upon to demonstrate satisfactory completion of the education requirement. Nevertheless, under either of these interpretations, the division would need either rulemaking authority or statutory clarification in the bill's proposed language.

Currently, the business and corporate entities the division regulates do not include any licensure requirements as the division does not issue licenses for any entity or professional outside of yacht and ship salespersons and brokers. The Division does not currently have the capabilities or staff to create and manage continuing education for professional licensees. However, the Division of Professions, which licenses every other profession regulated by the Department with the exception of the Division of Certified Public Accountants and Division of Real Estate, houses the Bureau of Education and Testing, which is mandated to create as well as continuously monitor compliance with, and continuously update the course requirements for all of these professional licenses issued by the Department, including pre-licensure and post-licensure education.

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

If yes, explain:	
Is the change consistent with the agency's core mission?	Y ☐ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 61B-60.001, F.A.C.: remove "Gross Tons" and its definition, remove temporary 90 day license definition. Rule 61B-60.001 and 61B-60.003, F.A.C.: remove any reference to the temporary 90 day license.

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

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Potentially yacht salespersons as there may be an increased cost to obtain a yacht broker's license.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

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

Y ☐ N ☒

Revenues:	Click or tap here to enter text.
-----------	----------------------------------

Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	Possibly additional revenue is collected from license holders depending on how educational credits are issued (if the courses are Division led). However, the proposed bill as it stands, does not authorize the Division to collect any funds from the licensees to issue, monitor compliance with or administer educational requirements.
Expenditures:	It is anticipated that the approval process of continuing education will require additional personnel within the Bureau of Compliance.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Eligible salesperson license holders who are transitioning to a brokers' license may be required to take 20 continuing education credits at an undetermined cost.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	If the list of approved credits is required to be maintained on the division's website, there would be an impact but, as written, this bill does not. There are anticipated expenses related software/programming needs and database support. There will be a very significant cost to rebrand all items referencing the division's name. ** The Division of Technology Comments** This bill requires changing the name of CTMH to the Division of Condominiums, Timeshares, Yacht Brokers & Mobile Homes. This change will require updates and configuration changes to update existing application, the website, and also has possible CE reporting requirements. Website – 20 hours - VR –40 hours - VO – 40 hours - OnBase – 8 hours - CE Reporting/VR – 80 hours This work can be done by existing technology resources. If additional CTMS staff is added in support of this bill, additional costs could be incurred.
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FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
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ADDITIONAL COMMENTS

OGC Rules: No additional comments.

DSO: The impact to the division is minimal and will be accommodated with existing resources.

Office of Planning and Budget: There will be an indeterminate fiscal impact to the Division of Condominiums, Timeshares, and Mobile Homes in order to implement continuing education requirements and for the various costs associated with re-branding the Division offices and materials to reflect the Division's name change.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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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)

3/29/

Meeting Date

406

Bill Number (if applicable)

Topic

Yacht Brokers

Amendment Barcode (if applicable)

Name

Elyn Bogdanoff

Job Title

Address

1 E Bnd

Street

Phone

954 364-6005

City

State

Zip

Email

ebogdanoff@beckerlawgas.com

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

International Yacht Brokers 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.

S-001 (10/14/14)

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 782

INTRODUCER: Regulated Industries Committee and Senator Hooper

SUBJECT: Department of Business and Professional Regulation

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	Fav/CS
2.			AEG	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 782 revises licensing and regulatory requirements for businesses and professions administered by the Department of Business and Professional Regulation (DBPR), including mold-related professionals, asbestos abatement professionals, electrical and alarm system contractors, certain public lodging establishments, and certain public food service establishments.

Relating to mold-related professional licensing regulations, the bill authorizes a method for persons who have held a license in another state or territory for at least 10 years to obtain a Florida license.

Relating to asbestos professional licensing regulations, the bill:

- Authorizes a method for persons who have held a license in another state for at least 10 years and meet examination and education requirements to obtain a Florida license; and
- Removes limits of bondability and credit as required criteria for determining the financial stability of an applicant for licensure.

Relating to electrical and alarm system contractors licensing, the bill removes an existing deadline for registered electrical and alarm systems contractors to seek authorization to engage in their trades throughout the state at any time.

Relating to the licensing, inspection, and regulation of public lodging establishments and public food service establishments by the Division of Hotels and Restaurants (DHR) in the DBPR which are not otherwise exempt, the bill:

- Requires licensees to establish and accurately maintain an online account with the DHR and provide an email address to the DHR as a primary contact method; the DHR must implement the online account requirements and provide a method to opt-out of online accounts, by rule.
- Requires licensees and licensed agents managing a license classified as a vacation rental or timeshare project to timely submit address changes and changes in the number of houses or units covered by the license within 30 days of the change;
- Allows the DHR to serve inspection reports and other notices to operators of such establishments by email, in-person delivery, or mail;
- Allows a transient public lodging establishment guest register to be kept in an electronic format and removes the requirement for guests to sign the register;

Relating to boxing matches held solely for training purposes, the bill removes a restriction on the maximum difference in weight of participants, eliminating the 12 pound weight differential for such matches in current law.

According to the DBPR, the bill may result in an indeterminate fiscal impact to local government.¹ See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

For ease of reference, the Present Situation for each section of the bill is addressed below in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (DBPR) is provided below.

Organization of the DBPR

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 11 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

¹ See Department of Business and Professional Regulation (DBPR), *2023 Agency Legislative Bill Analysis for SB 782* at 5-6 (Feb. 15, 2023) (on file with the Senate Committee on Regulated Industries).

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.² The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.³

Powers and Duties of the DBPR

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.”⁴ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁵ The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁶ 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.⁷

However, “neither the [DBPR] 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 desiring to engage in a profession or occupation from finding employment.⁸

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.⁹ 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.¹⁰

Division of Certified Public Accounting

In Fiscal Year 2021-2022, there were 38,541 active licensees in the DBPR’s Division of Certified Public Accounting.¹¹

² Section 548.003(1), F.S.

³ See Parts I and III of ch. 450, F.S.

⁴ Section 455.01(6), F.S.

⁵ 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 staff counsel of the DBPR. See s. 455.221(1), F.S.

⁶ Section 455.201(2), F.S.

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ 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.

¹⁰ Section 455.01(4) and (5), F.S.

¹¹ See Department of Business and Professional Regulation, *Annual Report, Fiscal Year 2021-2022*, at 10, at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Mar. 21, 2023).

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.¹²

Division of Professions

In Fiscal Year 2021-2022, in the DBPR's Division of Professions, which regulates all licensees, there were 937,960 active licensees (of which 38,541 were licensed accountants; 66,936 were licensed engineers, and 345,026 were real estate-related licensees), including:¹³

- Accountants (CPAs);
- Architects and interior designers;
- Asbestos consultants and contractors;
- Athlete agents;
- Auctioneers;
- Barbers;
- Building code administrators and inspectors;
- Community association managers;
- Construction industry contractors;
- Cosmetologists;
- Electrical contractors;
- Employee leasing companies;
- Engineers;
- Geologists;
- Home inspectors;
- Harbor pilots (pilot commissioners);
- Landscape architects;
- Mold-related services;
- Real estate appraisers;
- Real estate (brokers/associates)
- Talent agencies; and
- Veterinarians.

Division of Real Estate

In Fiscal Year 2021-2022, there were 345,026 active licensees in the DBPR's Division of Real Estate.¹⁴

¹² See Department of Business and Professional Regulation, *Annual Report, Division of Hotels and Restaurants*, at <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Mar. 28, 2023); see page 10 of the Annual Report summarizing the numbers of licenses issued each fiscal year to public lodging and food service establishments.

¹³ *Id.*

¹⁴ *Id.*

III. Effect of Proposed Changes:

Mold-Related Professionals

Present Situation

The Department of Business and Professional Regulation (DBPR) licenses and regulates mold-related professionals.¹⁵ Specifically, mold assessors and mold remediators are regulated by Part XVI of ch. 468, F.S., and licensed by the Mold-Related Services Licensing Program¹⁶ in the DBPR. In Fiscal Year 2021-2022, there were 5,806 active licensees, and 654 inactive licensees.¹⁷ Of 127 complaints against licensees, 26 met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in 16 cases.¹⁸

“Mold assessment” means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of amplification of mold growth of greater than 10 square feet.¹⁹

“Mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter of greater than 10 square feet that was not purposely grown at that location; however, it may not include work that requires a contractor license under ch. 489, F.S.²⁰

In order to be licensed as a mold assessor or mold remediator, an applicant must:²¹

- Be of good moral character;
- Pass the required DBPR-approved²² examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation;
- Have the insurance required under s. 468.8421, F.S.; and
- Complete either:
 - At least a two-year associate of arts degree with certain course requirements and a minimum of one year of experience; or
 - A high school diploma or the equivalent with a minimum of four years of experience.

¹⁵ See part XIV of ch. 468, F.S., Mold-Related Services; and *Annual Report, Fiscal Year 2021-2022, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2021-2022 Annual Report) at 10, available at <http://www.myfloridalicense.com/DBPR/os/documents/Division%20Annual%20Report%20FY%2021-22.pdf> (last visited Mar. 28, 2023).

¹⁶ Section 468.84, F.S.

¹⁷ See 2021-2022 Annual Report at 18.

¹⁸ *Id.* at 89.

¹⁹ Section 468.8411(3), F.S.

²⁰ Section 468.8411(5), F.S.

²¹ Section 468.8413(2), F.S.

²² Section 455.217, F.S., requires the DBPR’s Division of Professions to “provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations,” and to seek the advice of the appropriate regulatory board in doing so. The Department of Business and Professional Regulation must act together with the Division of Service Operations, the Division of Professions, and the Division of Real Estate, to “ensure that examinations adequately and reliably measure an applicant’s ability to practice the profession” that is regulated. *Id.*

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:²³

- Are of good moral character;
- Hold the insurance required under s. 468.8421, F.S.;
- Hold a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States if the criteria for such license is substantially equivalent to the licensure criteria in Florida; and
- Are qualified to take the DBPR-approved examination as set forth in s. 468.8413, F.S., and have passed a national, regional, state, or territorial licensing examination that is DBPR-approved as substantially equivalent to the required Florida examination, as set forth in s. 468.8414, F.S.

Applicants for a mold-related license must also pay initial fees of \$230.²⁴

Effect of Proposed Changes

Section 1 amends s. 468.8414, F.S., to allow licensure by endorsement to practice mold assessment or mold remediation for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory.

Applicants pursuing this avenue for licensure must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

The bill clarifies the provision relating to licensure certification examination requirements.

Asbestos Abatement

Present Situation

The DBPR also licenses and regulates asbestos consultants and asbestos contractors.²⁵ Asbestos abatement means the removal, encapsulation, enclosure, or disposal of asbestos.²⁶

An asbestos consultant may:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; and
- Prepare asbestos abatement specifications.²⁷

²³ Section 468.8414(3), (4), F.S.

²⁴ As set forth in Fla. Admin. Code R. 61-31.101, this figure includes an application fee of \$125, a licensure fee of \$100, and an unlicensed activity fee of \$5.00.

²⁵ See ch. 469, F.S., Asbestos Abatement; and *Annual Report, Fiscal Year 2021-2022, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at 26, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Mar. 28, 2023).

²⁶ See s. 469.001(1), F.S.

²⁷ See s 469.003, F.S.

An asbestos contractor may work as an asbestos consultant and also conduct asbestos abatement work.²⁸

An asbestos consultant's license may only be issued to an applicant who:

- Holds a current, valid, active license as an architect issued under ch. 481, F.S.;
- Holds a current, valid, active license as a professional engineer issued under ch. 471, F.S.;
- Holds a current, valid, active license as a professional geologist issued under ch. 492, F.S.;
- Is a diplomat of the American Board of Industrial Hygiene; or
- Has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.²⁹

An applicant for licensure as either an asbestos consultant or contractor must also:³⁰

- If applying for an asbestos consultant license, complete the DBPR-approved courses in the following topics:
 - Building asbestos surveys and mechanical systems;
 - Asbestos management planning;
 - Respiratory protection; and
 - Project designer.
- If applying for an asbestos contractor license, complete courses in the following topics:
 - Asbestos contractor/supervisor; and
 - Respiratory protection.
- Provide evidence of satisfactory work on ten asbestos projects within the last five years;
- Provide evidence of financial stability; and
- Pass a DBPR-approved examination.

In order to determine financial stability and adopt standards in related rules,³¹ the DBPR must use both the applicant's credit history and limits of bondability and credit.³² There is no provision allowing or addressing licenses by endorsement for asbestos licensees of other states.

In Fiscal Year 2021-2022, there were 442 active licensees, and nine inactive licensees.³³ Of nine complaints against licensees, two met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in none of the cases.³⁴

If an individual proposes to engage in asbestos consulting or contracting as any legal entity or in a name other than the individual's legal name:

- The legal entity must apply for licensure through a qualifying agent; or
- The applicant must apply for licensure under the fictitious name.³⁵

²⁸ See s. 469.003(3), F.S.

²⁹ See s. 469.004(1), F.S.

³⁰ See s. 469.005, F.S.

³¹ The standards for determining an applicant's financial stability may be found in Fla. Admin. Code R. 61E1-4.002.

³² See s. 469.006(2)(c)2., F.S.

³³ See 2021-2022 Annual Report at 18.

³⁴ *Id.* at 87.

³⁵ See s. 469.006(2)(a), F.S.

A qualifying agent must be licensed under ch. 469, F.S., in order for a business organization to be licensed in the same category for which the qualifying agent is licensed.³⁶

Effect of Proposed Changes

Section 2 amends s. 469.004, F.S., related to licensure of asbestos consultants and asbestos contractors, to allow licensure by endorsement to practice as an asbestos consultant or asbestos contractor for an applicant who has:

- Passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan;
- Held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the application date and is applying for the same or similar license in Florida; and
- Successfully completed all required DBPR-approved courses.³⁷

Applicants for licensure by endorsement must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

Grandfathering Provision for Registered Electrical and Alarm System Contractors

Present Situation

Section 489.514, F.S., authorizes the Electrical Contractors' Licensing Board (ECLB) to grandfather certain applicants for registered contractor status, but only if application was made before November 1, 2021; under this provision, which now appears obsolete, the ECLB must certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;³⁸ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years' contracting experience in the applicable trade category (with an active license and excluding probationary periods);
 - Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
 - Meeting all required insurance and financial responsibility requirements.³⁹

³⁶ See s. 469.005(3), F.S.

³⁷ All applicants must complete a respiratory protection course, with those seeking licenses as asbestos consultants completing courses in building asbestos surveys and mechanical systems, asbestos management planning, and project design, and those seeking licenses as asbestos contractors completing an asbestos contractor/supervisor course. See ss. 469.005(2) and 469.005(3), F.S.

³⁸ The Electrical Contractors' Licensing Board (ECLB) has established a \$196 fee for applications for registered contractor certification. See s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.001.

³⁹ See s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

The DBPR received 766 applications from local electrical and alarm contractors for a statewide license during the last period of grandfathering, from July 1, 2019, through November 1, 2021.⁴⁰

Effect of Proposed Changes

Section 3 amends s. 489.514(3), F. S., to remove the deadline for applicants with registered contractor status to seek certified licenses by November 1, 2021, allowing the ECLB to consider an application to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state at any time.

Public Lodging Establishments/Public Food Service Establishments

Present Situation

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida.⁴¹ A public lodging establishment includes establishments that are transient or nontransient.⁴² A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.⁴³

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or one calendar month.⁴⁴

⁴⁰ See DBPR, 2023 Agency Legislative Bill Analysis for SB 782 at 8 (Feb. 15, 2023) (on file with the Senate Regulated Industries Committee).

⁴¹ The Division of Hotels and Restaurants (DHR) also licenses and regulates elevators, escalators, and other vertical conveyance devices. See DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Mar. 28, 2023).

⁴² See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements, as defined in s. 718.103, F.S.

⁴³ *Id.* Section 509.013(11), F.S., further provides that the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

⁴⁴ *Id.*

A “public food service establishment” means:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.⁴⁵

Numerous places providing food service are exempted from the definition of public food service establishment, such as certain schools and universities operated for students and faculty, and places maintained by certain religious, fraternal, and civic organizations.⁴⁶

Establishments regulated under ch. 509, F.S., must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.⁴⁷

Notices from the DHR pursuant to ch. 509, F.S., must be written and delivered personally by an agent of the DHR or by registered letter to the operator of the establishment, except lodging inspection reports and food service inspection reports, which may be delivered by electronic means.⁴⁸

Operators of a public lodging establishment or public food service establishment may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.⁴⁹ Operators of public food service establishments must also maintain a copy of the latest food service inspection report and make it available to the DHR at the time of any inspection and to the public upon request.⁵⁰

In addition, operators of transient establishments⁵¹ must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.⁵² Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.⁵³

⁴⁵ See s. 509.013(5), F.S.

⁴⁶ *Id.*

⁴⁷ See ss. 509.032 and 509.035, F.S.

⁴⁸ See s. 509.091, F.S.

⁴⁹ See s. 509.101, F.S.

⁵⁰ *Id.*

⁵¹ See *supra* n. 36.

⁵² See s. 509.101, F.S.

⁵³ *Id.*

Effect of Proposed Changes

Sections 4, 5, and 6 address requirements imposed upon public lodging establishments and public food service establishments.

Section 4 amends s. 509.091, F.S., to require licensees and licensed agents to provide an email address to the DHR to serve as the primary method of contact for all communications. The bill authorizes service of the DHR's notices and inspection reports by email or regular mail, in addition to personal delivery, and removes a requirement for the use of registered mail. The bill also authorizes the DHR to post an inspection report in a conspicuous place at the establishment, when the operator refuses to accept or evades service, or the agent is unable to serve the report after due diligence.

Section 5 amends s. 509.101, F.S., to clarify the duty for operators of transient establishments to maintain a guest register in chronological order of guests that occupy rental units in the establishment. Operators must make the register available for inspection by the DHR at any time, and the requirement for guests to sign the register is removed. The bill authorizes operators to keep the register in an electronic format.

Section 6 amends s. 509.241, F.S., related to licenses held by public lodging and public food service establishments. Under the bill, persons who plan to open a public lodging establishment or a public food service establishment, and each licensee or licensed agent, must create and maintain a DHR online account, and provide an e-mail address to function as the primary contact for all communication from DHR.

The bill provides licensees and licensed agents are responsible for maintaining accurate contact information on file with the DHR. A licensee or licensed agent managing a license classified as a vacation rental or timeshare project (as those terms are defined in s. 509.242(1)(c) and (g), F.S., respectively), must submit any change in the street or unit address or number of houses or units included under the license within 30 days of the change. All changes must be filed with the DHR through the mandatory online account. The DHR must adopt rules to implement the online account requirements, including a provision specifying the circumstances for opting out of the requirement to have an online account.

The bill makes technical and conforming changes.

Florida Athletic Commission (formerly State Boxing Commission)***Present Situation***

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁵⁴ and mixed martial arts⁵⁵ by the Florida Athletic Commission (commission), which is assigned to

⁵⁴ The term "kickboxing" means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. See s. 548.002(12), F.S.

⁵⁵ The term "mixed martial arts" means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. See s. 548.002(16), F.S.

the DBPR for administrative and fiscal purposes.⁵⁶

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida,⁵⁷ which involves a professional.⁵⁸ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁵⁹ Chapter 548, F.S., does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”⁶⁰

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.⁶¹ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁶² During Fiscal Year 2021-2021, there were 131 sanctioned professional events and 146 amateur events.⁶³

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Section 548.017, F.S., requires licensing for a participant,⁶⁴ manager, trainer, second, referee, judge, physician, matchmaker, or promoter.⁶⁵

The commission must establish, by rule, the appropriate weight of gloves used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to eight ounces each. Participants must also wear any protective devices the commission deems necessary.⁶⁶

Effect of Proposed Changes

Section 7 amends s. 548.043, F.S., to remove a restriction requiring that the weight differential between participants in a boxing match held solely for training purposes not exceed 12 pounds.

⁵⁶ Section 548.003(1), F.S.

⁵⁷ Section 548.006(1), F.S.

⁵⁸ The term “professional” means a person who has received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

⁵⁹ Section 548.006(4), F.S.

⁶⁰ Section 548.007(6), F.S., and *supra* n. 41 for the definition of “mixed martial arts.”

⁶¹ Section 548.006(3), F.S.

⁶² Section 548.002(2), F.S.

⁶³ *See* DBPR, *Florida Athletic Commission Annual Report, Fiscal Year 2021-2022*, at 3 (at 2 in printed report), available at <http://www.myfloridalicense.com/dbpr/os/documents/Boxing19-20.pdf> (last visited Mar. 28, 2023).

⁶⁴ Section 548.002(17), F.S., defines “participant” as a professional competing in a boxing, kickboxing, or mixed martial arts match.

⁶⁵ *See* s. 548.002, F.S., for the definitions of “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer” and “referee,” are not defined in ch. 548, F.S.

⁶⁶ Section 548.043(3), F.S.

According to the DBPR, this change will provide greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.⁶⁷

Effective Date

The bill is effective July 1, 2023.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not increase fees for public lodging establishments or public food service establishments. It allows the licensees to pay for either one or two years at the same annual rate.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

There may be a positive impact on the private sector by expanding the geographical scope of practice for those registered electrical contractors that choose to take advantage of the grandfathering provision. The DBPR noted that there will be reduced costs to licensees who will no longer have to maintain registrations in multiple jurisdictions.⁶⁸

⁶⁷ See DBPR, 2023 Agency Legislative Bill Analysis for SB 782 at 4 (Feb. 15, 2023) (on file with the Senate Regulated Industries Committee).

⁶⁸ See DBPR, 2023 Agency Legislative Bill Analysis for SB 782 at 7 (Feb. 14, 2023) (on file with the Senate Regulated Industries Committee).

C. Government Sector Impact:

As to electrical and alarm system license revenue, the Division of Professions of the DBPR indicates revenue from license fees for licensees using the grandfathering provision to seek statewide licensing is indeterminate as it is unknown how many eligible licensees will apply, but estimates a maximum potential grandfathering fee revenue of \$399,056 over the next three fiscal years.⁶⁹

The Division of Professions notes there are 2,036 registered licensees with current or inactive licenses who may seek statewide licensing using the grandfathering provision; only 766 applications were received during the last grandfathering period of July 1, 2019, to November 1, 2021.⁷⁰ Local governments could experience a decrease in fees from registered electrical and alarm system contractors who seek statewide licensing using the grandfathering provision, but the impact is indeterminate.⁷¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.8414, 469.004, 489.514, 509.091, 509.101, 509.241, and 548.043.

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 Committee on March 29, 2023:

The CS:

- Removes provisions allowing public lodging establishments and public food service establishments to obtain renewal licenses for two years rather than one year.
- Retains the requirement for public lodging establishments, public food service establishments, licensees, and licensed agents to maintain a division online account for communications with the DBPR; and
- Provides rulemaking authority for the DBPR to specify circumstances allowing an opt-out of the online account requirement.

⁶⁹ *Id.* at 6.

⁷⁰ *Id.* at 8.

⁷¹ *Id.* at 5.

B. Amendments:

None.

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



582354

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 147 - 302
and insert:

Section 6. Subsection (4) is added to section 509.241,
Florida Statutes, to read:

509.241 Licenses required; exceptions.—

(4) ONLINE ACCOUNT AND TRANSACTIONS.—Except as provided in
paragraph (c), each person who plans to open a public lodging
establishment or a public food service establishment and each



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licensee or licensed agent must create and maintain a division online account and provide an e-mail address to the division to function as the primary contact for all communication from the division.

(a) Licensees and licensed agents are responsible for maintaining accurate contact information on file with the division.

(b) Each licensee issued a license or licensed agent managing a license classified as a vacation rental or timeshare project, as those terms are defined in s. 509.242(1)(c) and (g), respectively, must submit any change in the street or unit address or number of houses or units included under the license within 30 days after the change. All changes must be filed with the division through the division's online system.

(c) The division shall adopt such rules as are necessary to carry out this subsection. The rules must include a provision that specifies circumstances under which a public lodging establishment or a public food service establishment and each licensee or licensed agent may opt out of the requirement to have a division online account.

Section 7. Subsection (2) of section 548.043, Florida Statutes, is amended to read:

548.043 Weights and classes, limitations; gloves.—

(2) The commission shall establish by rule the acceptable difference in weight between participants; however, the maximum difference in weight in boxing matches may ~~shall~~ not exceed 12 pounds, except matches in the cruiserweight and heavyweight classes and exhibitions ~~held solely for training purposes.~~



582354

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

And the title is amended as follows:

Delete lines 26 - 45

and insert:

requiring certain individuals related to public
lodging establishments and public food service
establishments to maintain a division online account
and provide the division with specified information;
requiring the division to adopt rules; providing
requirements for such rules; amending s. 548.043,
F.S.; deleting a requirement limiting the types of
boxing exhibitions which require a specified maximum
difference in participant weights; providing an

By Senator Hooper

21-01266-23

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1 A bill to be entitled
 2 An act relating to the Department of Business and
 3 Professional Regulation; amending s. 468.8414, F.S.;
 4 requiring the department to certify for licensure
 5 qualified individuals who practice mold assessment or
 6 mold remediation and hold certain licenses issued by
 7 other states or territories; amending s. 469.004,
 8 F.S.; revising requirements for the issuance of an
 9 asbestos consultant's license; requiring the
 10 department to certify for licensure by endorsement
 11 asbestos consultants and asbestos contractors who meet
 12 certain exam and other state licensure requirements;
 13 requiring asbestos consultants and asbestos
 14 contractors to complete certain courses; amending s.
 15 489.514, F.S.; removing a time limitation for applying
 16 for certain contracting licenses under certain
 17 provisions; amending s. 509.091, F.S.; requiring
 18 licensees and licensed agents to provide the
 19 department's Division of Hotels and Restaurants with
 20 e-mail addresses at which they can be contacted;
 21 authorizing the division to deliver notices and
 22 inspection reports by e-mail; amending s. 509.101,
 23 F.S.; revising the guest register maintenance
 24 requirements that an operator of a transient
 25 establishment must meet; amending s. 509.241, F.S.;
 26 providing for the expiration of public lodging
 27 establishment and public food service establishment
 28 licenses; authorizing the licenses to be renewed for
 29 specified timeframes; requiring the division to

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

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30 provide forms for license renewals and license
 31 applications; requiring licensees and licensed agents
 32 to maintain a division online account and provide the
 33 division with specified information; amending s.
 34 509.251, F.S.; revising the public lodging
 35 establishment and public food service establishment
 36 license fees to include an option for 2-year renewals;
 37 limiting the fees the division may charge for a 2-year
 38 license renewal; requiring license fees to be paid in
 39 full at the time of application; amending s. 548.043,
 40 F.S.; deleting a requirement limiting the types of
 41 boxing exhibitions which require a specified maximum
 42 difference in participant weights; reenacting s.
 43 509.102(2), F.S., relating to mobile food dispensing
 44 vehicles, to incorporate the amendment made to s.
 45 509.251, F.S., in a reference thereto; providing an
 46 effective date.
 47
 48 Be It Enacted by the Legislature of the State of Florida:
 49
 50 Section 1. Subsection (3) of section 468.8414, Florida
 51 Statutes, is amended to read:
 52 468.8414 Licensure.—
 53 (3) The department shall certify as qualified for a license
 54 by endorsement an applicant who is of good moral character, who
 55 has the insurance coverage required under s. 468.8421, and who
 56 meets at least one of the following requirements:
 57 (a) Is qualified to take the examination as set forth in s.
 58 468.8413 and has passed a certification examination offered by a

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nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation and that has been approved by the department as substantially equivalent to the requirements of this part and s. 455.217.~~7~~ ~~or~~

(b) Holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States if the criteria for issuance of the license were substantially the same as the licensure criteria ~~that is~~ established by this part as determined by the department.

(c) Has held a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States for at least 10 years before the date of application. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active.

Section 2. Present subsection (3) of section 469.004, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and subsection (1) of that section is amended, to read:

469.004 License; asbestos consultant; asbestos contractor.—

(1) All asbestos consultants must be licensed by the department. Except for an asbestos consultant's license issued by endorsement as provided under subsection (3) or otherwise expressly provided by law, an asbestos consultant's license may be issued only to an applicant who holds a current, valid, active license as an architect issued under chapter 481; holds a current, valid, active license as a professional engineer issued under chapter 471; holds a current, valid, active license as a professional geologist issued under chapter 492; is a diplomat

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of the American Board of Industrial Hygiene; or has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

(3) The department shall certify as qualified for licensure by endorsement any individual applying for licensure who has passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, has held a valid license to practice as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the date of application, and is applying for the same or similar license in this state, subject to ss. 469.005(5) and 469.006. The application for licensure must be made either when the license in the other state or territory is active or within 2 years after such license was last active. To qualify for licensure by endorsement, an asbestos consultant must complete the courses required by s. 469.005(2) and an asbestos contractor must complete the courses required by s. 469.005(3).

Section 3. Subsection (3) of section 489.514, Florida Statutes, is amended to read:

489.514 Certification for registered contractors; grandfathering provisions.—

~~(3) An applicant must make application by November 1, 2021, to be licensed pursuant to this section.~~

Section 4. Section 509.091, Florida Statutes, is amended to read:

509.091 Notices; form and service.—

(1) All licensees and licensed agents must provide an e-mail address to the division to function as the primary method

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of contact for all communication with the division.

(2) Each notice or inspection report served by the division pursuant to this chapter must be in writing and must be delivered personally by an agent of the division, sent by e-mail, or mailed by registered letter to the operator of the public lodging establishment or public food service establishment. If the operator refuses to accept service or evades service or the agent is otherwise unable to effect service after due diligence, the division may post such notice or inspection report in a conspicuous place at the establishment.

~~(2) Notwithstanding subsection (1), the division may deliver lodging inspection reports and food service inspection reports to the operator of the public lodging establishment or public food service establishment by electronic means.~~

Section 5. Subsection (2) of section 509.101, Florida Statutes, is amended to read:

509.101 Establishment rules; posting of notice; food service inspection report; maintenance of guest register; mobile food dispensing vehicle registry.—

(2) It is the duty of each operator of a transient establishment to maintain at all times a register of, signed by ~~or for~~ guests who occupy rental units within the establishment, showing the dates upon which the rental units were occupied by such guests and the rates charged for their occupancy. Each operator shall maintain this register shall be maintained in chronological order, shall make the register and available for inspection by the division at any time, and may keep the register in an electronic format. Operators need not make

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available registers that ~~which~~ are more than 2 years old.

Section 6. Section 509.241, Florida Statutes, is amended to read:

509.241 Licenses required; exceptions.—

(1) LICENSES; ~~ANNUAL~~ RENEWALS.—Each public lodging establishment and public food service establishment shall obtain a license from the division. Such license may not be transferred from one place or individual to another. It is ~~shall be~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for such an establishment to operate without a license. Local law enforcement shall provide immediate assistance in pursuing an illegally operating establishment. The division may refuse a license, or a renewal thereof, to any establishment ~~that is~~ not constructed and maintained in accordance with law and with the rules of the division. The division may refuse to issue a license, or a renewal thereof, to any establishment an operator of which, within the preceding 5 years, has been adjudicated guilty of, or has forfeited a bond when charged with, any crime reflecting on professional character, including soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or illegally dealing in controlled substances as defined in chapter 893, whether in this state or in any other jurisdiction within the United States, or has had a license denied, revoked, or suspended pursuant to s. 429.14. Licenses expire if not renewed before the expiration date and may be renewed for 1 or 2 years. Licenses must ~~shall be~~ renewed using forms provided by ~~annually, and~~ the division. The division shall adopt a rule establishing procedures ~~a staggered schedule~~ for license

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issuance and renewals. If any license expires while administrative charges are pending against the license, the proceedings against the license ~~must shall~~ continue to conclusion as if the license were still in effect.

(2) APPLICATION FOR LICENSE.—Each person who plans to open a public lodging establishment or a public food service establishment ~~must shall~~ apply for and receive a license from the division using forms provided by the division before commencing prior to the commencement of operation. A condominium association, as defined in s. 718.103, which does not own any units classified as vacation rentals or timeshare projects under s. 509.242(1)(c) or (g) is not required to apply for or receive a public lodging establishment license.

(3) DISPLAY OF LICENSE.—Any license issued by the division shall be conspicuously displayed in the office or lobby of the licensed establishment. Public food service establishments that ~~which~~ offer catering services shall display their license number on all advertising for catering services.

(4) ONLINE ACCOUNT AND TRANSACTIONS.—Each person who plans to open a public lodging establishment or a public food service establishment and each licensee or licensed agent must create and maintain a division online account and provide an e-mail address to the division to function as the primary contact for all communication from the division.

(a) Licensees and licensed agents are responsible for maintaining accurate contact information on file with the division.

(b) Each licensee issued a license or licensed agent managing a license classified as a vacation rental or timeshare

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project, as those terms are defined in s. 509.242(1)(c) and (g), respectively, must submit any change in the street or unit address or number of houses or units included under the license within 30 days of the change. All changes must be filed with the division through the division's online system.

Section 7. Subsections (1) and (2) of section 509.251, Florida Statutes, are amended to read:

509.251 License fees.—

(1) The division shall adopt, by rule, a schedule of fees to be paid by each public lodging establishment as a prerequisite to issuance or renewal of a license. Initial license ~~Such~~ fees must shall be based on the number of rental units in the establishment. License renewal fees must be based on the number of rental units in the establishment and whether the renewal is for 1 or 2 years. The aggregate fee per establishment charged any public lodging establishment may not exceed \$1,000 for a 1-year license or \$2,000 for a 2-year license; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. Vacation rental units or timeshare projects within separate buildings or at separate locations but managed by one licensed agent may be combined in a single license application, and the division ~~must shall~~ charge a license fee as if all units in the application are in a single licensed establishment. ~~The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual renewal period or more than 6 months before the next such renewal period and one half of the fee if application is made 6 months or less before such period.~~ The fee

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schedule ~~must shall~~ include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302. ~~All fees, which~~ are payable in full for each application at the time ~~regardless of when~~ the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law.

(2) The division shall adopt, by rule, a schedule of fees to be paid by each public food service establishment as a prerequisite to issuance or renewal of a license. Initial license fees must be based on the classification of the license. License renewal fees must be based on the classification of the license and whether a renewal is for 1 or 2 years. The fee schedule ~~must shall~~ prescribe a base ~~base~~ fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment charged any public food service establishment may not exceed \$400 for a 1-year license or \$800 for a 2-year license; however, the fees described in paragraphs (a) and (b) may not be included as part of the aggregate fee subject to this cap. ~~The fee schedule shall require an establishment which applies for an initial license to pay the full license fee if application is made during the annual~~

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~~renewal period or more than 6 months before the next such renewal period and one-half of the fee if application is made 6 months or less before such period.~~ The fee schedule ~~must shall~~ include fees collected for the purpose of funding the Hospitality Education Program, pursuant to s. 509.302. ~~All fees, which~~ are payable in full for each application at the time ~~regardless of when~~ the application is submitted.

(a) Upon making initial application or an application for change of ownership, the applicant shall pay to the division a fee as prescribed by rule, not to exceed \$50, in addition to any other fees required by law, which shall cover all costs associated with initiating regulation of the establishment.

(b) A license renewal filed with the division after the expiration date shall be accompanied by a delinquent fee as prescribed by rule, not to exceed \$50, in addition to the renewal fee and any other fees required by law.

Section 8. Subsection (2) of section 548.043, Florida Statutes, is amended to read:

548.043 Weights and classes, limitations; gloves.—

(2) The commission shall establish by rule the acceptable difference in weight between participants; however, the maximum difference in weight in boxing matches shall not exceed 12 pounds, except matches in the cruiserweight and heavyweight classes and exhibitions ~~held solely for training purposes.~~

Section 9. For the purpose of incorporating the amendment made by this act to section 509.251, Florida Statutes, in a reference thereto, subsection (2) of section 509.102, Florida Statutes, is reenacted to read:

509.102 Mobile food dispensing vehicles; preemption.—

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291 (2) Regulation of mobile food dispensing vehicles involving
292 licenses, registrations, permits, and fees is preempted to the
293 state. A municipality, county, or other local governmental
294 entity may not require a separate license, registration, or
295 permit other than the license required under s. 509.241, or
296 require the payment of any license, registration, or permit fee
297 other than the fee required under s. 509.251, as a condition for
298 the operation of a mobile food dispensing vehicle within the
299 entity's jurisdiction. A municipality, county, or other local
300 governmental entity may not prohibit mobile food dispensing
301 vehicles from operating within the entirety of the entity's
302 jurisdiction.

303 Section 10. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Joe Gruters, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 7, 2023

I respectfully request that **Senate Bill # 782**, relating to Department of Business and 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 "Ed Hooper", is written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 21



ANALYSIS

2023 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

BILL INFORMATION

BILL NUMBER:	<u>SB 782</u>
BILL TITLE:	<u>Department of Business and Professional Regulation</u>
BILL SPONSOR:	<u>Sen. Hooper</u>
EFFECTIVE DATE:	<u>07/01/2023</u>

COMMITTEES OF REFERENCE

1) Regulated Industries
2) Appropriations Committee on Agriculture, Environment, and General Government
3) Fiscal Policy
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Click or tap here to enter text.

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	HB 869
SPONSOR:	Rep. McClain

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	2/15/2023
LEAD AGENCY ANALYST:	Jeff Kelly, Director, Division of Professions
ADDITIONAL ANALYST(S):	Tracy Dixon, Service Operations W. Justin Vogel (for OGC Rules) Patrick Cunningham, Florida Athletic Commission Robin Jordan, Technology

	Michelle Keith, Division of Hotels and Restaurants Marc Drexler, Counsel, Division of Hotels & Restaurants
LEGAL ANALYST:	Daniel Brackett, Deputy General Counsel
FISCAL ANALYST:	Garrett Blanton, Office of Planning and Budget

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Division of Professions:

The bill reopens the provision allowing registered electrical and alarm contractors to become certified contractors after five years of experience, and adds endorsement provisions for licenses in mold assessment/remediation and asbestos contractors and consultants when an applicant meets certain requirements.

Athletic Commission:

The bill removes language that exhibitions be held solely for training purposes when the weight differential of the participants is greater than 12 pounds.

Division of Hotels and Restaurants:

The bill requires licensees and licensed agents to provide the division with e-mail addresses and to create and maintain a division online account; requires that certain transactions must be performed through the division online account; allows the division to deliver notices and inspection reports by e-mail and regular mail; revises transient public lodging guest register requirements; adjusts the expiration and renewal timeframes for public food service and public lodging licenses; allows the option for 2 year license renewals and requires license fees to be paid in full at the time of application. The bill also reenacts ss. (2) of s. 509.102, F.S. for the purpose of incorporating the amendment made by this bill to s. 509.251, Florida Statutes, in a reference thereto.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Division of Professions:

Section 468.8414, F.S., provides a method for licensure by endorsement for mold assessment and mold remediation licensure with other states, provided they:

- Have good moral character;
- Have insurance coverage as required by s. 468.8421, F.S.; and
- Are qualified to take the examination and has passed a certification examination in mold assessment or mold remediation offered by a nationally recognized organization that has been approved by the department as substantially equivalent to the requirements of this part; OR holds a valid license to practice mold assessment or mold remediation issued by another state or territory of the United States with substantially similar to the requirements of this part;

Section 469.004(1), F.S. requires that an asbestos consultant's license may only be issued to an applicant who:

- holds a current, valid, active license as an architect issued under Chapter 481;
- holds a current, valid, active license as a professional engineer issued under Chapter 471,
- holds a current, valid, active license as a professional geologist under Chapter 492;
- is a diplomat of the American Board of Industrial Hygiene; or
- has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.

Section 469.005, F.S., requires that all applicants for licensure as either asbestos consultants or asbestos contractors also pay an initial licensing fee, complete certain courses with specified minimum requirements, provide evidence of satisfactory work on 10 asbestos projects within the last 5 years, provide evidence of financial stability, and pass a department-approved examination.

Section 489.514, F.S., previously permitted Florida registered electrical and alarm contractors to grandfather their registered license to a state wide certification without taking the state licensure examination if they met certain criteria and made application to the Department before November 1, 2021. Registered contractors are permitted to work only

within local jurisdictions which provide them a local competency card and are not permitted to operate on a state wide basis unless they obtain a state certified license. Since closing of the grandfathering provision on November 1, 2021, registered contractors are required to sit for the state certified license examination prior to receiving a state certified license as an electrical or alarm contractor.

Athletic Commission:

Section 548.043(2), F.S. limits the maximum weight differential in boxing contests to 12 pounds with limited exceptions such as exhibitions held solely for training purposes.

Division of Hotels and Restaurants:

The division accepts fees, applications and renewals by postal mail or through the Department's online services portal. Application forms have fields for e-mail addresses but are not required.

Official division notices and inspection reports are either personally delivered or sent by certified mail.

Section 509.241(1), F.S., requires each public lodging and public food service establishment under the division's authority to obtain a license and requires the division to adopt rules establishing a staggered schedule for license renewals.

Transient public lodging establishments must maintain a guest register signed by guests who occupy rental units within the establishment, with the rental dates and rates charged. The guest register must be kept in chronological order, available for division review and maintained through the previous 2 years.

Under s. 509.251, F.S., the division adopted a fee schedule for licensees. This divides the state into seven geographic districts which are constructed of groups of counties. The fee required for a new license depends on the date applied and the time until next renewal. The division's fee schedule is unnecessarily complex and inequitable as it relates to license fee calculations and duration of license time received for the payment. New public lodging and food service establishments are required to pay either a full year fee, half year fee, or in some cases, both a full and half year fee depending on their county/district location in the state. These complexities cause issues for both the operator and division resulting in errors, processing delays and applicants paying for more license time than they actually receive. The result is a complex licensing structure and inequitable costs for licensure.

The division's licensees must renew their license annually according to the renewal date for the district in which the business is located. Districts have five different renewal dates (two of the smaller districts share renewal dates with larger districts). Among other factors which are also embedded in the fee schedule such as the type of license or number of seats/units, the amount an applicant pays for a new license depends on the renewal date for their district and the time of year they plan to open. Businesses opening on the same day in different parts of the state will pay different fees and their licenses will expire at different times. As a result, license fees are unnecessarily complex and new licensees are frequently charged for more license time than they receive.

Licenses issued by the division should be conspicuously displayed in the office or lobby of the establishment and caterers should include their division issued license number on all advertisements.

2. EFFECT OF THE BILL:**Division of Professions:**

Section 1 of the bill amends s. 468.8414, F.S., to add a category of licensure to practice mold assessment or mold remediation by endorsement for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory. However, such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

Section 2 of the bill amends s. 469.004, F.S., to add a category of licensure to practice asbestos consulting or Asbestos contracting by endorsement. The bill requires such applicants to have passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan, have held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years, demonstrate financial stability, and complete courses as specified by s. 469.005, F.S. Such applicants must apply while they hold an active license in another state or territory, or within 2 years after such license was last active.

Section 3 of the bill amends s. 489.118, F. S., to permanently re-open the period for grandfathering of registered contractors' licenses to state wide certified contractors' licenses indefinitely by removing the requirement that applicants apply by November 1, 2021.

Athletic Commission:

The bill removes language that requires the exhibitions with a weight differential greater than 12 pounds to be held solely for training purposes.

Division of Hotels and Restaurants:

Section 4 of the bill amends s. 509.091 and requires all licensees and licensed agents to provide an e-mail address to the division as a primary method of contact and provides that the division may deliver notices or inspection reports personally, by email, or standard postal mail. It also allows the division to post an inspection report in a conspicuous location at the establishment if the operator evades or refuses to accept service or if the division is unable to obtain service after due diligence.

Section 5 of the bill amends s. 509.101 and permits an operator of a transient public lodging establishment to maintain a guest register in an electronic format and removes the guest signature requirement.

Section 6 of the bill amends s. 509.241 and states that licenses must be renewed before the expiration date; provides the option to renew licenses for 1 or 2 years at a time; removes the requirement of a staggered license renewal schedule; allows the division to adopt procedures for license issuance and renewals; and requires applicants to use forms provided by the division and receive a license prior to commencing operations. Section 6 also requires each applicant, licensee or licensed agent create and maintain a division online account; reaffirms that an e-mail address must be provided to the division as a primary method of contact; states that licensees and licensed agents are responsible for maintaining accurate contact information on file with the division; and mandates that any changes in the street address or unit address, or number of houses or units included under a vacation rental license must be made through the division's online system within 30 days of the change.

Section 7 of the bill amends s. 509.251 to require initial license fees for a public lodging establishment be based on the number of rental units and license renewal fees be based on the number of rental units and whether the renewal is for 1 or 2 years. Section 7 requires initial license fees for a public food service establishment be based on the license classification of the establishment and license renewal fees be based on the license classification of the establishment and whether the renewal is for 1 or 2 years. Section 7 also removes language requiring a half year or full year license fee be paid based on the date the application is submitted in relation to the annual renewal period.

Section 9 of the bill reenacts subsection (2) of s. 509.102, Florida Statutes, for the purpose of incorporating the amendment made by this bill to s. 509.251, Florida Statutes, in a reference thereto. Subsection (2) provides that the regulation, licensing, registration and permitting of mobile food dispensing vehicles is preempted to the State; that a municipality, county or other local government may not require fees, permits, registration or any other license as a condition for operation of a mobile food dispensing vehicle within the entity's jurisdiction and that a municipality, county or other local government may not prohibit the operation of mobile food dispensing vehicles within their jurisdiction.

Section 10 states the act will take effect on July 1, 2023.

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

If yes, explain:	Division of Professions – Application forms and corresponding rules will need to be amended/created to allow for application by endorsement for Asbestos and Mold-Related Services. Division of Hotels and Restaurants: Section 6 of the bill allows the division to adopt rules establishing procedures for license issuance and renewals. Section 7 allows the division to adopt license renewal fees taking into account the factors listed in statute.
Is the change consistent with the agency's core mission?	Y ☒ N ☐

Rule(s) impacted (provide references to F.A.C., etc.):	Division of Professions Rule 61E1-4.001, F.A.C. Rule 61-31.101, F.A.C. Division of Hotels and Restaurants: Rules 61C-1.002 and 61C-1.008, F.A.C.
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4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

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

Y ☒ N ☐

Revenues:	Division of Professions Section 3 of the bill pertaining to ECLB Grandfathering may result in a reduction in local registered licensees paying renewal and reciprocity fees, but the impact is indeterminate Division of Hotels and Restaurants: None anticipated.
Expenditures:	None anticipated

Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

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

Y ☐ N ☐

Revenues:	Division of Professions Indeterminate; \$399,056 maximum potential grandfathering fee revenue over the next three years (see Fiscal Comments). Division of Hotels and Restaurants: Based on internal projections for FY 23-24, the bill would reduce the division’s revenue by approximately 3.3%. Under the current license fee structure, about 58% of new applicants pay an initial license fee for some fraction of time and then pay the Division again to renew their license within the same fiscal year. Under the initiative, the division will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The initiative would eliminate half year prorating of license fees, replacing it with a full year which slightly increases division revenue but results in a true “annual license” from the start with no same fiscal year renewals. Overall, based on internal projections for FY 2023-24, the initiative would reduce the Division’s revenue by \$1,413,484, or roughly 3.3%. The figures are derived from a projected 3.05% growth rate in Division Revenue and a projected 2.85% growth rate in Food & Lodging License fees. <table><thead><tr><th></th><th>FY23-24</th><th>FY24-25</th><th>FY25-26</th></tr></thead><tbody><tr><td>Total Div. Revenue</td><td>\$42,647,797</td><td>\$43,947,207</td><td>\$45,286,207</td></tr><tr><td>Bill Difference</td><td>(\$1,413,484)</td><td>(\$1,453,723)</td><td>(\$1,495,108)</td></tr><tr><td>Revenue with bill implemented</td><td>\$41,234,314</td><td>\$42,493,484</td><td>\$43,791,100</td></tr><tr><td>% Change</td><td>-3.31%</td><td>-3.31%</td><td>-3.30%</td></tr></tbody></table> The anticipated decrease in division revenue resulting from 2 year license renewals is unknown, as it would depend on how many operators opted for a 2 year renewal and the amount of the renewal fee.		FY23-24	FY24-25	FY25-26	Total Div. Revenue	\$42,647,797	\$43,947,207	\$45,286,207	Bill Difference	(\$1,413,484)	(\$1,453,723)	(\$1,495,108)	Revenue with bill implemented	\$41,234,314	\$42,493,484	\$43,791,100	% Change	-3.31%	-3.31%	-3.30%
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% Change	-3.31%	-3.31%	-3.30%																		
Expenditures:	Division of Professions: None. Division of Hotels & Restaurants: None anticipated.																				
Does the legislation contain a State Government appropriation?	Division of Hotels & Restaurants: No.																				
If yes, was this appropriated last year?	Click or tap here to enter text.																				

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

Y ☒ N ☐

Revenues:	Division of Hotels & Restaurants: None anticipated.
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Expenditures:	Division of Professions <u>ECLB Grandfathering:</u> The grandfathering application fee will be an expenditure; however, there will be reduced costs to individual licensees that no longer have to maintain registrations in multiple jurisdictions. Division of Hotels and Restaurants: The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The division estimates licensees will save about \$1.4 million in FY 2023-24. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure. Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen. <table border="1" data-bbox="451 510 1515 737"> <thead> <tr> <th></th><th>FY23-24</th><th>FY24-25</th><th>FY25-26</th></tr> </thead> <tbody> <tr> <td>Total Div. Revenue</td><td>\$42,647,797</td><td>\$43,947,207</td><td>\$45,286,207</td></tr> <tr> <td>Bill Difference</td><td>(\$1,413,484)</td><td>(\$1,453,723)</td><td>(\$1,495,108)</td></tr> <tr> <td>Revenue with bill implemented</td><td>\$41,234,314</td><td>\$42,493,484</td><td>\$43,791,100</td></tr> <tr> <td>% Change</td><td>-3.31%</td><td>-3.31%</td><td>-3.30%</td></tr> </tbody> </table> The figures are derived from a projected 3.05% growth rate in Division Revenue and a projected 2.85% growth rate in Food & Lodging License fees. The anticipated decrease in license fees resulting from 2 year license renewals is unknown, as it would depend on how many operators opted for a 2 year renewal and the amount of the renewal fee		FY23-24	FY24-25	FY25-26	Total Div. Revenue	\$42,647,797	\$43,947,207	\$45,286,207	Bill Difference	(\$1,413,484)	(\$1,453,723)	(\$1,495,108)	Revenue with bill implemented	\$41,234,314	\$42,493,484	\$43,791,100	% Change	-3.31%	-3.31%	-3.30%
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% Change	-3.31%	-3.31%	-3.30%																		
Other:	Click or tap here to enter text.																				

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

Y ☒ N ☐

If yes, explain impact.	Division of Hotels and Restaurants: The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The division estimates licensees will save about \$1.4 million in FY 2023-24. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure. Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen. The anticipated decrease in license fees resulting from 2 year license renewals is unknown, as it would depend on how many operators opted for a 2 year renewal and the amount of the renewal fee.
Bill Section Number:	Division of Hotels and Restaurants: Sections 6 and 7.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	This bill will require configuration changes to the department's licensing system and public portal for public food service establishment license fees to include an option for 2-year renewals. It will also require updates to application if the language is changed. • Versa: Regulation 28 hours • Versa: Online 10 hours
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FEDERAL IMPACT

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

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

Division of Profession

ECLB Grandfathering: Revenue from a grandfathering fee is indeterminate because it is unknown how many eligible registered Electrical Contractors' Licensing Board (ECLB) licensees will apply for grandfathering. The total fee (application fee, initial licensing fee, and unlicensed activity fee) during the end of the previous grandfathering period was \$196. There are 2,036 Registered Current Active/Inactive ECLB licensees who may be able to take advantage of the grandfathering provision. However, the department received only 766 applications during the last period of grandfathering, which was from July 1, 2019 to November 1, 2021.

Assuming total application/license fees of \$196, the grandfathering fees received by the department over the next three fiscal years could range from \$150,136.00 (if the department receives the same number of applications as the last grandfathering period) to a maximum of \$399,056.00 if all 2,036 Registered Current Active/Inactive licensees apply over the next three fiscal years.

Division of Service Operations: There will be an impact on the Division, but the increase in workload could be absorbed by the existing staff.

OGC Rules: No additional comments.

Athletic Commission: No additional comments.

Division of Hotels and Restaurants: The bill authorizes the division to adopt rules to establish new procedures for license issuance and renewals and removes the staggered license fee schedule. The benefits of this are two-fold: first, it simplifies the division's licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division's licensees by reducing the costs of the license over twelve months and decreasing the number of application delays (incorrect fees are one of the common issues that prevent approval of applications), thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

The division's intent is that the new 365 day license provisions would only apply to new license applications received and approved after the effective date of this bill. The bill is not retroactive, thus, existing licenses will continue to retain their

current renewal/expiration dates. However, existing licenses will be able to utilize the new 2 year license renewal option. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

Division license renewals are currently run in batches by the Division of Technology. If the bill is implemented, the division would require assistance from the Division of Technology in running and printing renewals on a daily basis as needed.

The division is unsure it is necessary to include that all licensees and licensed agents must provide an e-mail address to the division for use as the primary method of communication at both s. 509.091(1) and s. 509.241(4). Section 509.241(4) provides additional details and instructions for use and maintenance of a division online account and seems like a more appropriate location.

OGC Division of Hotels and Restaurants: No additional comments.

Office of Planning and Budget: Based on historical licensing data, the Division of Hotels and Restaurants estimates and average license revenue growth of 3.05%. Under the current structure, licensees often need to purchase a 6 month /pro-rated license and then renew an annual license in the same fiscal year. The provisions of the bill would end this and would cause licensees to purchase annual licenses only. While this would create an increase in the initial license fee collected, the new schedule would cause a reduction in overall annual revenues due to the lack of 6 month licensees seeking annual renewals in the same year.

The anticipated decrease in revenue in a fiscal year resulting from 2 year license renewals is unknown, as it would depend on how many operators opted for the a 2 year renewal and the amount of the renewal fee.

Based on internal projections the provisions of this bill would reduce the Division's licensing revenue by an estimated \$1,413,484 in FY 2023-24, \$1,453,273 in FY 2024-25, and \$1,495,108 in FY 2025-26.

The reduction in revenues would also reduce the amount transferred to General Revenue. The estimated reduction to the 8% service charge to General Revenue would be \$113,079 in FY 2023-24, \$116,262 in FY 2024-25, and \$119,609 in FY 2025-26.

The new schedule of licensing could impact expenditures. Because of the reduction in renewals there may be a \$3,444 savings in postage and a reduction of annual bank fees of as much as \$18,584.

	FY 2023-24	FY 2024-25	FY 2025-26
Estimated H&R License Fee Revenue Under Current Licensing System	\$28,166,605	\$28,968,456	\$29,793,133
Estimated H&R License Fee Revenue Under Proposed Change	\$26,753,122	\$27,514,733	\$28,298,026
Reduction in Revenue	(\$1,413,484)	(\$1,453,723)	(\$1,495,108)
Reduction in 8% Service Charge to General Revenue	(\$113,079)	(\$116,262)	(\$119,609)
Estimated Postage and Bank Fee Savings	\$22,028	\$22,028	\$22,028

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No additional comments.
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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/29/23

Meeting Date

SB 782

Bill Number or Topic

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Jeffrey Kelly

Phone

Address 2661 Blawstone Road

Street

Email jeffrey.kelly@myfloridalicense.com

Tallahassee

City

FL

State

32399

Zip

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 782

3/29/2023

Meeting Date

Bill Number or Topic

Regulated Industries

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Melanie S. Griffin

Phone (850) 491-5705

Address 2601 Blair Stone Road
Street

Email Melanie.griffin@myfloridalicense.com

Tallahassee FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☒ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

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: SPB 7044

INTRODUCER: Regulated Industries Committee

SUBJECT: Changes in Ownership of or Interest in Pari-mutuel Permits

DATE: March 30, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Kraemer	Imhof		RI Submitted as Committee Bill
2. _____	_____	_____	_____
3. _____	_____	_____	_____

I. Summary:

SPB 7044 revises provisions relating to pari-mutuel wagering¹ permits, cardroom licenses, and annual operating licenses to address an inadvertent oversight respecting the sale, transfer, or assignment of permits and issuance of cardroom licenses.

The bill revises s. 550.054(15), F.S., relating to permits for the conduct of pari-mutuel wagering (PMW permit), to clarify that a PMW permit may be held by a permitholder who held an operating license to conduct pari-mutuel wagering in Fiscal Year 2020-2021 or a purchaser, transferee, or assignee of a valid PMW permit, if the purchase, transfer, or assignment is approved by the Florida Gaming Control Commission (commission) before such purchase, transfer, or assignment. However, current law prohibiting the commission from approving or issuing any additional PMW permits remains effective.

Similarly, the bill revises s. 849.086(5), F.S., relating to cardrooms authorized to operate in the state,² to clarify that a purchaser, transferee, or assignee of a valid PMW permit may be issued a license to operate an authorized cardroom.

The bill conforms the annual operating license requirements in current law to the pari-mutuel wagering permit provisions that are revised in the bill, to authorize the issuance of an annual operating license to an eligible purchaser, transferee, or assignee of a valid pari-mutuel wagering permit.

¹ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.” See s. 550.002(21), F.S.

² Under s. 849.086(5)(a), F.S., a cardroom license may only be issued to a licensed pari-mutuel permitholder, and an authorized cardroom may only be operated at the same facility where the permitholder is authorized to conduct pari-mutuel wagering activities under its valid PMW permit.

The bill does not have an impact on state government.

The bill is effective upon becoming a law.

II. Present Situation:

In 2021, the Legislature updated Florida law for authorized gaming in the state,³ providing in part, that a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021.⁴ Under current law, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses⁵ may only be held by a permitholder, other than a limited thoroughbred permitholder, who held an operating license for the conduct of pari-mutuel wagering for Fiscal year 2020-2021.⁶ Further, permits held on January 1, 2021 are deemed valid, but new permits for pari-mutuel wagering may not be approved or issued.⁷

Current law also requires that cardroom licenses not be issued to any permitholder, other than a limited thoroughbred permitholder, if the permitholder did not hold an operating license for Fiscal Year 2020-2021.⁸

Section 550.054(11), F.S., generally requires that any transfer or assignment of a PMW permit receive prior approval⁹ by the commission, which must determine the eligibility of persons and entities to hold a PMW permit pursuant to s. 550.1815, F.S. Similarly, if a PMW permit is held by a corporation or business entity other than an individual, the transfer of 10 percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the commission.¹⁰

Section 550.1815, F.S., addresses which persons and entities (including but not limited to employees, officers and directors, partners, and owners of the permitholder) may hold permits, based on whether they are of “good moral character,” or have been convicted of a disqualifying felony¹¹ or for bookmaking.¹²

³ See ch. 2021-271, Laws of Fla.

⁴ Section 550.01215(1)(d), F.S.

⁵ Under s. 551.114(4), F.S., designated slot machine gaming areas must be located at the address specified in the licensed permitholder's slot machine license issued for Fiscal Year 2020-2021.

⁶ Section 550.054(15)(a), F.S.

⁷ Section 550.054(15)(c), F.S.

⁸ Section 849.086(5)(c), F.S.

⁹ There is one exception to the prior-approval requirement in s. 550.054(11)(a), F.S., which is that the holder of a permit converted to a jai alai permit “may lease or build anywhere within the county in which its permit is located.” As of 2021, such conversions are prohibited. See s. 550.054(15)(d), F.S.

¹⁰ See s. 550.054(11)(b), F.S.

¹¹ Pursuant to s. 550.1815(1)(b), F.S., the following are disqualifying felonies: (1) a felony in Florida; (2) any felony in any other state which would be a felony if committed in Florida under the laws of this state; (3) any felony under the laws of the United States; or (4) a felony under the laws of another state if related to gambling which would be a felony under Florida law if the offense was committed in Florida.

¹² The term “bookmaking” is defined in s. 849.25, F.S., to mean “the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of

In December 2022, West Flagler Associates, Ltd. applied to the Florida Gaming Control Commission (commission) to transfer its pari-mutuel permit #155 and associated licenses to conduct pari-mutuel wagering and slot machine gaming, and operate a cardroom, to Wind Creek Miami, LLC, a wholly owned subsidiary of PCI Gaming Authority, an unincorporated chartered instrumentality of the Poarch Band of Creek Indians. The commission did not approve the transfer of the permit because Wind Creek Miami, LLC did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021 as required by s. 550.054(15)(a), F.S.¹³

In February 2023, the commission conditionally approved the acquisition of West Flagler Associates, Ltd.'s permit after PCI Gaming Authority substituted Gretna Racing LLC as the purchaser of pari-mutuel permit #155 and the accompanying pari-mutuel, slot machine, and cardroom licenses. Gretna Racing LLC did hold operating an operating license for pari-mutuel wagering and the operation of a cardroom for Fiscal Year 2020-2021.¹⁴

III. Effect of Proposed Changes:

SPB 7044 revises provisions relating to pari-mutuel wagering permits and cardroom licenses to address an inadvertent oversight respecting the sale, transfer, or assignment of permits and issuance of cardroom licenses.

Section 1 of the bill revises s. 550.054(15), F.S., relating to PMW permits, to clarify that a purchaser, transferee, or assignee of a valid PMW permit may be issued a PMW permit to be purchased, transferred, or assigned by a permitholder, if approved by the Florida Gaming Control Commission (commission) before such purchase, transfer, or assignment. However, current law prohibiting the commission from approving or issuing any additional PMW permits remains effective.

Section 2 of the bill revises s. 849.086(5), F.S., relating to cardrooms authorized to operate in the state, to clarify that a purchaser, transferee, or assignee of a valid PMW permit may be issued a license to operate an authorized cardroom.

Section 3 of the bill revises s. 550.01215(1)(d), F.S., to authorize the issuance of an annual operating license to an eligible purchaser, transferee, or assignee of a valid PMW permit.

The bill is effective upon becoming a law.

human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever.”

¹³ Section 550.01215(1)(d), F.S., also prohibits the issuance of an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom, if the permitholder did not hold an operating license to conduct pari-mutuel wagering for Fiscal Year 2020-2021. Section 849.086(5)(c), F.S., also prohibits the issuance of a cardroom license under the same restrictions.

¹⁴ Memorandum to the Florida Gaming Control Commission from Ross Marshman, General Counsel, *Proposed acquisition of a pari-mutuel wagering permit and its paired licenses by Gretna Racing, LLC, from West Flagler Associates, Ltd.*, February 6, 2023 (on file with the Senate Regulated Industries Committee).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The clarification in the bill that purchasers, transferees, and assignees of a valid pari-mutuel permit may hold a valid pari-mutuel permit, if approved by the commission before the change in ownership, eliminates an inadvertent uncertainty in current law, for those permitholders authorized to conduct pari-mutuel wagering who wish to sell, transfer, or assign a valid pari-mutuel permit and its associated licenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.054, 550.01215, and 849.086.

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

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

None.

B. Amendments:

None.

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



879290

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 65 and 66
insert:

Section 3. Paragraph (d) of subsection (1) of section
550.01215, Florida Statutes, is amended to read:

550.01215 License application; periods of operation;
license fees; bond.—

(1) Each permitholder shall annually, during the period
between December 15 and January 4, file in writing with the



879290

commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(d) Notwithstanding any other provision of law, other than a permitholder issued a permit pursuant to s. 550.3345, a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. This paragraph does not apply to a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a).

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

And the title is amended as follows:

Delete line 7

and insert:

license for the operation of a cardroom; amending s.

550.01215, F.S.; providing applicability; providing an

FOR CONSIDERATION By the Committee on Regulated Industries

580-02550-23

20237044pb

A bill to be entitled

An act relating to changes in ownership of or interest in pari-mutuel permits; amending s. 550.054, F.S.; revising entities authorized to hold pari-mutuel wagering permits and associated licenses; amending s. 849.086, F.S.; specifying such entities may hold a license for the operation of a cardroom; providing an effective date.

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

Section 1. Subsection (15) of section 550.054, Florida Statutes, is amended to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(15) (a) Notwithstanding any other provision of law, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by a permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or who holds a permit issued pursuant to s. 550.3345 or by a purchaser, transferee, or assignee of a valid permit for the conduct of pari-mutuel wagering if approved by the commission before such purchase, transfer, or assignment and provided that the commission does not approve or issue an additional permit for the conduct of pari-mutuel wagering;

(b) All permits issued under this chapter held by permitholders on January 1, 2021, are deemed valid for the sole and exclusive purpose of satisfying all conditions for the valid

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

580-02550-23

20237044pb

issuance of the permits, if such permitholder held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or if such permitholder held a permit issued pursuant to s. 550.3345;

(c) Additional permits for the conduct of pari-mutuel wagering may not be approved or issued by the commission or former Division of Pari-mutuel Wagering after January 1, 2021; and

(d) A permit to conduct pari-mutuel wagering may not be converted to another class of permit.

Section 2. Paragraph (c) of subsection (5) of section 849.086, Florida Statutes, is amended to read:

849.086 Cardrooms authorized.—

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(c) Notwithstanding any other provision of law, a pari-mutuel permitholder, other than a permitholder issued a permit pursuant to s. 550.3345 or a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a), may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. In order for an initial cardroom license to be issued to a thoroughbred permitholder issued a permit pursuant to s. 550.3345, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing. In order for a cardroom license to be renewed by a thoroughbred

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

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20237044pb

59 permitholder, the applicant must have requested, as part of its
60 pari-mutuel annual license application, to conduct at least 90
61 percent of the total number of live performances conducted by
62 such permitholder during either the state fiscal year in which
63 its initial cardroom license was issued or the state fiscal year
64 immediately prior thereto if the permitholder ran at least a
65 full schedule of live racing or games in the prior year.

66 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Education Pre-K -12, *Chair*
Agriculture
Appropriations Committee on Education
Appropriations Committee on Health
and Human Services
Education Postsecondary
Fiscal Policy
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR COREY SIMON

3rd District

March 29, 2023

The Honorable Joe Gruters

Chair, Committee on Regulated Industries
316 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gruters,

I respectfully request an excused absence from the March 29, 2023, meeting of the Committee on Regulated Industries.

Thank you for your consideration.

Sincerely,

Corey Simon

Corey Simon
Senator, District 03

□ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore



March 27, 2023

Via Email Delivery

The Honorable Jay Collins
The Florida Senate
305 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Re: SB 162 Water and Wastewater Facility Operators
03/29/23 agenda, Regulated Industries Committee

Dear Senator Collins:

Thank you for filing SB 162 relating to Water and Wastewater Facility Operators. The Florida League of Cities supports this legislation because it will help address municipal workforce shortages. The need for licensed water and wastewater plant operators is especially acute because these staffing shortages impact a utility's ability to operate safely and effectively. We sincerely appreciate your efforts to address these needs in this bill.

Sincerely,

A handwritten signature in black ink that reads "Rebecca O'Hara".

Rebecca A. O'Hara
Deputy General Counsel
Florida League of Cities, Inc.

cc: Chair Gruters and Members of the Senate Regulated Industries Committee



CourtSmart Tag Report

Room: SB 401
Caption: Senate Committee on Regulated Industries

Type:
Judge:

Started: 3/29/2023 12:02:00 PM
Ends: 3/29/2023 12:43:29 PM **Length:** 00:41:30

12:01:59 PM Chair Gruters calls meeting to order
12:02:07 PM Chair opening remarks
12:02:26 PM SB 534 will be tp'd
12:02:40 PM Confirmations: John Davis, Lottery Department
12:03:01 PM Mr Davis is sworn in
12:03:12 PM Mr. Davis opening remarks
12:07:39 PM questions?
12:08:39 PM Ms. Melanie Griffin, Secretary DBPR
12:09:29 PM Ms. Griffin opening remarks
12:13:39 PM questions
12:14:39 PM Senator Davis for a question
12:14:49 PM Ms. Griffin in response
12:15:30 PM Continued questions and response
12:16:58 PM appearance cards
12:17:58 PM Motion Senator Hooper makes motion to move confirmations
12:18:12 PM roll call for all confirmations
12:18:26 PM Confirmations are approved favorably
12:18:36 PM tab 3 SB 1488 by Senator Garcia
12:18:51 PM Senator Garcia to explain the bill
12:19:02 PM questions
12:19:54 PM appearance cards waiving in support
12:20:04 PM debate
12:20:13 PM Senator Garcia waives close
12:20:20 PM roll call vote on SB 1488
12:20:27 PM tab 7 SB 1570 by Senator Hooper
12:20:54 PM Senator Hooper to explain the bill
12:21:04 PM Strike All barcode amendment 829920
12:21:29 PM questions on the amendment
12:22:01 PM Kari Hebrank Aluminum Assoc of Florida
12:22:35 PM amendment is adopted
12:23:35 PM back on bill as amended
12:23:41 PM appearance cards waiving in support
12:23:59 PM debate
12:24:03 PM Senator Hooper waives close on bill as amended
12:24:13 PM roll call vote on CS/SB 1570
12:24:27 PM Senator Davis votes yes on SB 1570
12:24:49 PM tab 4 SB 1312 by Senator Collins
12:25:01 PM Senator Collins to explain the bill
12:25:20 PM questions
12:26:14 PM appearance cards - waive in support
12:26:24 PM Senator Collins waives close
12:26:30 PM roll call vote on SB 1312
12:26:40 PM tab 5 CS/SB 162 by Senator Collins
12:26:59 PM Senator Collins to explain the bill
12:27:09 PM late-filed amendment 493716 by Senator Collins
12:28:08 PM appearance cards, waiving in support of the amendment
12:28:19 PM amendment is adopted
12:28:31 PM debate
12:28:36 PM Senator Collins waives close on the bill as amended
12:28:51 PM roll call vote on CS/SB 162
12:29:11 PM tab 8 SB 406 by Senator Hooper
12:29:38 PM Senator Hooper to explain the bill

12:29:56 PM amendment barcode 686642
12:30:56 PM questions
12:31:06 PM amendment is adopted
12:31:16 PM back on bill as amended
12:31:22 PM Senator Davis for a question on the bill
12:31:34 PM Senator Hooper in response
12:32:23 PM appearance cards, waive in support
12:32:34 PM sponsor waives close
12:32:39 PM roll call vote on the CS/SB 406
12:33:01 PM tab 9 SB 782 by Senator Hooper
12:33:25 PM Senator Hooper to explain the DBPR Agency bill
12:34:06 PM barcode amendment 582354 by Senator Hooper
12:35:06 PM amendment is adopted
12:35:48 PM Senator Davis for a question
12:36:08 PM Ms. Griffin DBPR answers question to Senator Davis
12:37:08 PM Senator Davis for a line of questions to Ms. Griffin
12:37:24 PM Jeff Kelly, Division Director for Regulation DBPR
12:37:47 PM Senator Davis for question to Mr. Kelly
12:38:12 PM questions
12:38:26 PM debate
12:38:30 PM Senator Hooper waives close
12:38:36 PM roll call vote on CS/SB 782
12:38:56 PM tab 10 SPB by Regulated by Industries Change of Ownership of Interest in PM Permits
12:39:55 PM Mary Kraemer, analyst, to explain the bill
12:40:24 PM questions
12:40:30 PM amendment 879290 by Senator Hooper
12:40:42 PM Senator Hooper to explain the amendment recommended by staff
12:41:01 PM debate
12:41:06 PM amendment is adopted
12:41:17 PM Senator Davis for a question
12:41:37 PM Mary Kraemer to respond
12:42:37 PM motion by Senator Hooper for Committee
12:42:55 PM roll call vote on committee bill
12:43:02 PM Senator Hooper moves we adjourn