Tab 1	**CS/SB 260** by **CJ, DiCeglie (CO-INTRODUCERS) Hooper**; (Identical to CS/H 00039) Refusal to Submit to a Breath, Urine, or Blood Test

Tab 2	**SB 362** by **Bradley**; (Similar to CS/H 00161) Medical Treatment Under the Workers' Compensation Law

142360	A	S	RCS	FP, Bradley	Delete L.51:	02/08 09:06 AM

Tab 3	**CS/SB 366** by **AEG, Yarborough**; (Similar to CS/H 00081) Civil Penalties Under the Gas Safety Law of 1967

Tab 4	**CS/SB 632** by **AEG, Simon (CO-INTRODUCERS) Collins**; (Similar to CS/H 00087) Taking of Bears

385350	A	S	RCS	FP, Simon	Delete L.20 - 37:	02/08 09:02 AM

Tab 5	**SB 938** by **Yarborough**; (Identical to H 00547) Dentistry

Tab 6	**SB 998** by **Collins**; (Similar to CS/H 00815) Sale of Liquefied Petroleum Gas

670796	D	S	RCS	FP, Collins	Delete everything after	02/08 09:11 AM

Tab 7	**SB 1142** by **Hooper**; (Similar to CS/H 01579) Occupational Licensing

918130	A	S	RCS	FP, Hooper	Delete L.63 - 87:	02/08 08:49 AM

Tab 8	**SB 1276** by **Collins**; (Identical to H 01179) Litigation Financing

~~336640~~	A	S	WD	FP, Collins	Delete L.104 - 302:	02/08 08:56 AM
658474	A	S	RCS	FP, Collins	Delete L.104 - 302:	02/08 08:56 AM

Tab 9	**CS/SB 1350** by **TR, DiCeglie**; (Similar to CS/H 01517) Salvage

Tab 10	**CS/SB 1566** by **RI, Hutson**; Fees/Fantasy Sports Contest Operator

902220	A	S	RCS	FP, Hutson	Delete L.24 - 25:	02/08 08:59 AM

Tab 11	**SB 1568** by **Hutson**; (Compare to H 00679) Fantasy Sports Contest Amusement Act

~~127756~~	D	S	WD	FP, Hutson	Delete everything after	02/08 07:53 AM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Hutson, Chair
Senator Stewart, Vice Chair

MEETING DATE: Wednesday, February 7, 2024
TIME: 3:30—6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Hutson, Chair; Senator Stewart, Vice Chair; Senators Albritton, Berman, Boyd, Burton, Calatayud, Collins, DiCeglie, Garcia, Jones, Mayfield, Osgood, Rodriguez, Simon, Thompson, Torres, Trumbull, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 260** Criminal Justice / DiCeglie (Identical CS/H 39)	Refusal to Submit to a Breath, Urine, or Blood Test; Requiring that a person arrested for driving or being in actual physical control of a motor vehicle while under the influence who refuses to submit to a lawful test of his or her breath incident to a lawful arrest be told that he or she is subject to mandatory placement, for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; directing the department to require placement of an ignition interlock device before issuing a permanent or restricted driver license to a person who refused to submit to a lawful test of his or her breath, etc. TR 12/13/2023 Favorable CJ 01/23/2024 Fav/CS FP 02/07/2024 Favorable	Favorable Yeas 19 Nays 1
2	**SB 362** Bradley (Similar CS/H 161)	Medical Treatment Under the Workers' Compensation Law; Increasing limits on witness fees charged by certain witnesses; increasing maximum reimbursement allowances for physicians and surgical procedures, etc. BI 01/09/2024 Favorable HP 01/23/2024 Favorable FP 02/07/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
3	**CS/SB 366** Appropriations Committee on Agriculture, Environment, and General Government / Yarborough (Similar CS/H 81)	Civil Penalties Under the Gas Safety Law of 1967; Increasing, until a specified date, the civil penalty amount for violating the Gas Safety Law of 1967; increasing the maximum authorized civil penalty for any related series of violations during such timeframe; requiring the Florida Public Service Commission, after a date certain and at least annually thereafter, to establish and, if necessary, revise maximum penalties by rule based on specified factors, etc. RI 01/09/2024 Favorable AEG 01/24/2024 Fav/CS FP 02/07/2024 Favorable	Favorable Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 632** Appropriations Committee on Agriculture, Environment, and General Government / Simon (Similar CS/H 87)	Taking of Bears; Citing this act as the “Self Defense Act”; providing for the taking of bears without certain permits or authorizations under specified conditions; prohibiting certain possession, sale, and disposal of such bears; requiring the disposal of such bears by the Fish and Wildlife Conservation Commission, etc. EN 01/10/2024 Favorable AEG 01/24/2024 Fav/CS FP 02/07/2024 Fav/CS	Fav/CS Yeas 13 Nays 7
5	**SB 938** Yarborough (Identical H 547)	Dentistry; Deleting the role of the Board of Dentistry in the administration of the licensure examination for dentists; deleting the requirement for the board to establish an examination fee; revising requirements for licensure as a dentist; deleting a time limitation on the validity of certain licensure examination results; deleting a board-imposed reexamination fee, etc. HP 01/16/2024 Favorable FP 02/07/2024 Favorable RC	Favorable Yeas 20 Nays 0
6	**SB 998** Collins (Similar CS/H 815)	Sale of Liquefied Petroleum Gas; Defining the terms “licensed location” and “remote bulk storage”; authorizing up to two remote bulk storage locations for specified licenses; authorizing the Department of Agriculture and Consumer Services to condemn unsafe equipment and order the immediate removal of liquefied petroleum gas from certain bulk storage locations; requiring persons servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems to include specified information on certain documents, etc. CM 01/23/2024 Favorable EN 01/30/2024 Favorable FP 02/07/2024 Fav/CS	Fav/CS Yeas 20 Nays 0
7	**SB 1142** Hooper (Similar CS/H 1579)	Occupational Licensing; Requiring the Construction Industry Licensing Board within the Department of Business and Professional Regulation to issue registrations to eligible persons under certain circumstances; providing that the board is responsible for disciplining such licensees; providing for the fees for the issuance of the registrations and renewal registrations, etc. RI 01/22/2024 Favorable FP 02/07/2024 Fav/CS	Fav/CS Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**SB 1276** Collins (Identical H 1179)	Litigation Financing; Citing this act as the "Litigation Investment Safeguards and Transparency Act"; requiring a court's consideration of potential conflicts of interest which may arise from the existence of a litigation financing agreement in specified circumstances; prohibiting specified acts by litigation financiers; requiring certain disclosures related to litigation financing agreements and the involvement of foreign persons, foreign principals, or sovereign wealth funds; requiring the indemnification of specified fees, costs, and sanctions by a litigation financier in specified circumstances, etc. JU 01/22/2024 Favorable FP 02/07/2024 Fav/CS	Fav/CS Yeas 15 Nays 5
9	**CS/SB 1350** Transportation / DiCeglie (Similar CS/H 1517)	Salvage; Revising provisions relating to obtaining a salvage certificate of title or certificate of destruction; exempting the Department of Highway Safety and Motor Vehicles from liability to certain persons as a result of the issuance of such certificates; providing requirements for an independent entity's release of a damaged or dismantled vessel to the owner; authorizing the independent entity to apply for certain certificates for an unclaimed vessel, etc. TR 01/23/2024 Fav/CS EN 01/30/2024 Favorable FP 02/07/2024 Favorable	Favorable Yeas 20 Nays 0
10	**CS/SB 1566** Regulated Industries / Hutson (Linked S 1568)	Fees/Fantasy Sports Contest Operator; Requiring applicants for a fantasy sports contest operator license to pay a specified application fee; requiring contest operators to pay a specified annual license renewal fee; prohibiting such fees from exceeding a specified amount; requiring applicants and contest operators to provide certain written evidence; requiring contest operators to remit certain fees, etc. RI 01/29/2024 Fav/CS FP 02/07/2024 Fav/CS	Fav/CS Yeas 18 Nays 0
11	**SB 1568** Hutson (Compare H 679, Linked CS/S 1566)	Fantasy Sports Contest Amusement Act; Designating the "Fantasy Sports Contest Amusement Act"; requiring the Florida Gaming Control Commission to enforce and administer the act; providing application requirements for fantasy sports contest operator licenses; requiring a contest operator to implement specified consumer protection procedures; requiring contest operators to keep and maintain certain records for a specified period, etc. RI 01/29/2024 Favorable FP 02/07/2024 Favorable	Favorable Yeas 18 Nays 0

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 260

INTRODUCER: Criminal Justice Committee and Senators DiCeglie and Hooper

SUBJECT: Refusal to Submit to a Breath, Urine, or Blood Test

DATE: February 5, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	**Favorable**
2.	Parker	Stokes	CJ	**Fav/CS**
3.	Shutes	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 260 amends ss. 316.1939, 322.2615, 322.2616, and 322.2715, F.S., providing that an ignition interlock device be placed for a first refusal for 1 year, and reverts to current law on a second or subsequent refusal. The bill allows the placement period for an ignition interlock resulting from a first refusal to run concurrently with any other ignition interlock placement period required by a court or the Department of Highway Safety and Motor Vehicles (DHSMV).

The bill amends s. 316.1932, F.S., requiring a person be told that refusing to submit to the lawful breath test will result in the mandatory placement of an ignition interlock device for the duration of the license suspension.

The bill amends s. 316.1939, F.S., requiring proof of installation of the ignition interlock device to be sent to the DHSMV, and provides that the prohibitions and penalties in s. 316.1937(5), (6), and (8), F.S., apply to a person whose driving privilege is restricted pursuant to this subsection and to an ignition interlock device required by this subsection.

The bill may have a negative fiscal impact on the DHSMV associated with a projected increase in the number of driver license suspension administrative hearings. See the "Fiscal Impact" heading for additional details.

The bill takes effect October 1, 2024.

II. Present Situation:

Section 316.1932, F.S., provides that any person who accepts the privilege of operating a motor vehicle within this state is deemed to have given consent to submit to an approved breath test to determine the alcohol content of his or her breath, also referred to as the "implied consent" law. The breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has a reasonable belief such person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages.[1]

Every state in the U.S. has implied consent laws, which are a tool used by law enforcement to access evidence showing a person was illegally impaired while operating a motor vehicle. A person who refuses to submit to a lawful breath test can be subject to administrative and criminal penalties, but penalties vary among the states.[2]

Refusal to Submit to a Lawful Breath Test

In Florida, failure to submit to a lawful breath test results in an administrative suspension of the person's driving privilege for one year for a first refusal or 18 months for a subsequent refusal.[3] Additionally, a person who refuses to submit to a breath test for a subsequent time commits a first-degree misdemeanor, punishable by up to one year in jail and $1,000 fine.[4]

Comparatively, a first conviction of driving under the influence (DUI) can result in a fine of at least $500, 50 hours of community service, imprisonment of no more than six months, up to one year of probation, a court order to install an ignition interlock device for at least six continuous months, and completion of an authorized substance abuse course.[5]

The table below provides data on DUI breath testing refusal rates in Florida from 2018 to 2023.[6] Previous studies found the nationwide average rate for testing refusal at 24 percent.[7]

[1] Section 316.1932(1)(a)1.a., F.S.

[2] In 2016, the U.S. Supreme Court in *Birchfield v. North Dakota* held that the Fourth Amendment permits warrantless breath tests incident to arrest, and criminalizing the refusal to submit to a breath test is designed to serve the government's interest in deterring drunk driving. However, warrants for blood tests are required unless there are exigent circumstances.

[3] Section 322.2616(2)(b)1.a., F.S.

[4] Sections 316.1939(1), F.S.

[5] Section 316.193, F.S.

[6] Email from Jonas Marquez, Legislative Affairs Director, DHSMV, *RE: SB – 260 Refusal to Submit to a Breath, Urine or Blood Test*, (November 8, 2023) (on file with the Senate Committee on Transportation).

[7] Foundation for Advancing Alcohol Responsibility, *BAC Test Refusal Penalties*, (2016), https://www.responsibility.org/wp-content/uploads/2015/03/BAC-Test-Refusal-Penalties-2016-2.pdf (last visited January 18, 2024).

Year	Total Refusals	DUI UTCs	Refusal Rate	Crash-related Refusals
2018	15,091	43,715	34.52%	4,051
2019	15,497	44,890	34.52%	4,083
2020	12,926	37,310	34.64%	3,675
2021	15,183	43,787	34.67%	4,230
2022	14,941	44,001	33.96%	4,154
2023*	11,459	32,582	35.17%	3,166
*2023 is preliminary, activity dated 1/1/2023-9/30/2023				

Restricted Driver Licenses

A person whose driving privilege is suspended for refusing to submit to a lawful test of his or her breath, urine, or blood may be able to apply for restricted driving privileges through the Department of Highway Safety and Motor Vehicles (DHSMV) Bureau of Administrative Review after at least 90 days have elapsed from the date of the license suspension or expiration of a temporary driving permit.[8, 9] However, this privilege may not be granted to a person whose license has been suspended two or more times for testing refusal, or who refused testing following two or more DUI convictions.[10] Furthermore, a person whose driving privilege was suspended for an unlawful blood-alcohol or breath-alcohol level may be able to apply for restricted driving privileges after at least 30 days have elapsed from the date of the license suspension or expiration of a temporary driving permit.[11]

Section 322.271(1)(c), F.S., defines a "business purposes only" restricted driving privilege as limited to driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, driving for educational purposes, and driving for church and medical purposes. An "employment purposes only" restricted driving privilege is limited to driving to and from work and necessary on-the-job driving.

Ignition Interlock Devices

An ignition interlock device is a breath alcohol analyzer connected to a motor vehicle's ignition, which requires a breath sample to operate the motor vehicle. Section 316.1937, F.S., requires such devices to prohibit the vehicle from starting if the operator's blood alcohol level is in excess of 0.025 percent or other court-specified level.

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[8] Section 322.2615(10)(a), F.S.
[9] DHSMV, *Application for Administrative Hearing*, Form HSMV 78306 (Rev. 1/2022), *available at* https://www.flhsmv.gov/pdf/forms/78306.pdf (last visited January 18, 2024).
[10] Section 322.271(2)(a), F.S.
[11] Section 322.2615(10)(b), F.S.

The table below summarizes when an ignition interlock device is required in Florida.[12]

DUI Conviction	**Ignition Interlock Device Required**
1st conviction	If court orders for at least 6 continuous months
1st conviction if blood-alcohol level is ≥ 0.15, or minor in car	Mandatory for at least 6 continuous months
2nd conviction	Mandatory for at least 1 year
2nd conviction if blood-alcohol level is ≥ 0.15, or minor in car	Mandatory for at least 2 continuous years
3rd conviction	Mandatory for at least 2 years

The DHSMV contracts with vendors to provide ignition interlock devices in Florida. Currently, the DHSMV contracts with seven vendors to provide ignition interlock services.[13] The devices must meet or exceed the current standards of the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA).[14] The DHSMV oversees and monitors the ignition interlock devices.[15]

The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a study researching ignition interlock devices and DUI offense recidivism rates. The research showed that ignition interlock devices, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.[16] Similarly, NHTSA reviewed 15 studies on ignition interlock device effectiveness and found alcohol-impaired driving recidivism rates were 75 percent lower for drivers with ignition interlock devices installed. However, the difference in recidivism rates largely disappeared once the device was removed.[17]

The DHSMV indicates the compliance rate for individuals *eligible* to have an ignition interlock device installed is almost 98 percent. Forty-six percent of individuals required to have an ignition interlock device installed are not eligible until other sanctions on their record are cleared to allow driving privilege eligibility.[18] Section 316.193, F.S., providing DUI penalties, requires placement of the ignition interlock device "when the convicted person qualifies for a permanent or restricted license." Additionally, the DHSMV indicates that inability to afford the cost

[12] Section 316.193, F.S.
[13] DHSMV, *Ignition Interlock Program*, https://www.flhsmv.gov/driver-licenses-id-cards/education-courses/dui-and-iid/ignition-interlock-program/ (last visited January 18, 2024).
[14] Section 316.1938, F.S.
[15] Sections 316.1938 and 316.193(11), F.S.
[16] OPPAGA, *Ignition Interlock Devices and DUI Recidivism Rates*, Report No. 14-14, (December 2014), https://oppaga.fl.gov/Documents/Reports/14-14.pdf (last visited January 18, 2024).
[17] NHTSA, *A Highway Safety Countermeasure Guide for State Highway Safety Offices*, 10th Edition (2020), https://www.nhtsa.gov/book/countermeasures/deterrence/42-alcohol-ignition-interlocks (last visited January 18, 2024).
[18] Email from Jonas Marquez, Legislative Affairs Director, DHSMV, *RE: SB 260- Refusal to Submit to a Breath, Urine, or Blood Test*, (November 14, 2023) (on file with the Senate Committee on Transportation).

associated with the ignition interlock device is the most persuasive barrier to required installation.[19]

According to a study distributed by NHTSA, 27 states mandate ignition interlock program participation upon test refusal.[20] The requirements of the programs vary by state. States may require ignition interlock device placement as a penalty for testing refusal, incident to arrest for DUI, or to be granted restricted driving privileges following an administrative license suspension for refusing to submit to the breath test.

III. Effect of Proposed Changes:

The bill amends ss. 316.1939, 322.2615, 322.2616, and 322.2715, F.S., providing that an ignition interlock device be placed for a first refusal for 1 year, and reverts to current law on a second or subsequent refusal. The bill allows the placement period for an ignition interlock resulting from a first refusal to run concurrently with any other ignition interlock placement period required by a court or the DHSMV.

The bill amends s. 316.1932, F.S., requiring a person be told that refusing to submit to the lawful breath test will result in the mandatory placement of an ignition interlock device for the duration of the license suspension.

The bill amends s. 316.1939, F.S., requiring proof of installation of the ignition interlock device to be sent to the DHSMV, and provides that the prohibitions and penalties in s. 316.1937(5), (6), and (8), F.S., apply to a person whose driving privilege is restricted pursuant to this subsection and to an ignition interlock device required by this subsection.

The bill takes effect October 1, 2024.

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.

[19] *Supra* note 14. *See also* V. Fiscal Impact Statement.
[20] Barrett, H., Robertson, R.D., & Vanlaar, W. G. M., *State of the Practice of State Alcohol Ignition Interlock Programs* Report No. DOT HS 813 394, (January 2023), https://rosap.ntl.bts.gov/view/dot/66102 (last visited January 18, 2024).

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals required to install an ignition interlock device are responsible for costs of the device. Costs vary by vendor, but can range from $70 to $170 for installation and $50 to $120 per month for device leasing and monitoring.[21]

C. Government Sector Impact:

The DHSMV receives $12 for each ignition interlock installation, which is deposited into the Highway Safety Operating Trust Fund for operation of the Ignition Interlock Device Program.[22]

The DHSMV estimates the bill will result in a significant increase in the number of driver license review hearings that the Bureau of Administrative Review (BAR) will have to conduct. The department expects that it will need additional legal (hearing officers) and administrative support staff as a result of the expected increase in formal hearings. The department estimates that BAR will require an additional $1,135,000 in recurring funds (for eight additional full-time hearing officers and four additional administrative assistants) as a result of this bill.[23]

Additionally, the department projects that the potential increase in ignition interlock installations will require two additional staff positions in the Bureau of Motorists Compliance to administer the additional workload. The department estimates that the cost for these positions will be $133,268, recurring.

VI. Technical Deficiencies:

None.

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[21] LifeSaver Ignition Interlock, *Ignition Interlock Costs*, https://www.lifesafer.com/ignition-interlock-cost/ (last visited January 18, 2024).

[22] Section 322.2715(5), F.S.

[23] DHSMV, *2024 Legislative Bill Analysis: HB 39* (November 1, 2023) at p. 7 (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

The DHSMV notes that law enforcement officers will need to be educated and trained on the provisions of the bill and implied consent warning forms and/or cards, and refusal affidavits will need to be reviewed and updated to ensure compliance with the requirements of the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.1932, 316.1939, 322.2615, 322.2616, and 322.2715.

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 Criminal Justice on January 23, 2024:

The committee substitute:

- Provides that an ignition interlock device be placed for a first refusal for 1 year, and reverts to current law on a second or subsequent refusal.
- Allows the placement period for an ignition interlock resulting from a first refusal to run concurrently with any other ignition interlock placement period required by a court or the DHSMV.
- Requires proof of installation of the ignition interlock device to be sent to the DHSMV.
- Applies the prohibitions and penalties in s. 316.1937(5), (6), and (8), F.S., relating to tampering with a court-ordered ignition interlock device, to a person whose driving privilege is restricted pursuant to s. 316.1939, F.S.
- Reverts to current law regarding the number of days a person must wait before applying for a hardship license.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators DiCeglie and Hooper

591-02394-24 2024260c1

A bill to be entitled

An act relating to refusal to submit to a breath, urine, or blood test; amending s. 316.1932, F.S.; requiring that a person arrested for driving or being in actual physical control of a motor vehicle while under the influence who refuses to submit to a lawful test of his or her breath incident to a lawful arrest be told that he or she is subject to mandatory placement, for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; amending s. 316.1939, F.S.; requiring a person arrested for driving under the influence who refuses to submit to a lawful test of his or her breath to be subject to mandatory placement, for a specified period, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person; authorizing certain placement periods for ignition interlock devices to run concurrently; requiring reporting to the Department of Highway Safety and Motor Vehicles; specifying application of prohibitions and penalties; conforming provisions to changes made by the act; amending s. 322.2615, F.S.; requiring that a notice of suspension contain certain information; waiving the requirement for the installation of an ignition interlock device under certain circumstances; amending s. 322.2616, F.S.; requiring that a notice of suspension issued to persons younger than a specified

age contain certain information; waiving the requirement for the installation of an ignition interlock device under certain circumstances; amending s. 322.2715, F.S.; directing the department to require placement of an ignition interlock device before issuing a permanent or restricted driver license to a person who refused to submit to a lawful test of his or her breath; requiring the person to install the device at his or her own expense for a specified period; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who

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

has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will, for a first refusal, result in the suspension of the person’s privilege to operate a motor vehicle for ~~a period of~~ 1 year, and the person will be subject to mandatory placement for 1 continuous year, at the person’s own expense, of an ignition interlock device on all vehicles that are individually or jointly leased or owned and routinely operated by the person when the person qualifies for reinstatement of a permanent or restricted driver license. ~~for a first refusal, or for a period of 18 months~~ If the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, the person must be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person’s privilege to operate a motor vehicle for 18 months. The person must ~~and shall~~ also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s.

775.083, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test must ~~shall~~ be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of the person’s privilege to operate a motor vehicle for ~~a period of~~ 1 year for the first refusal, or for ~~a period of~~ 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her urine and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments used ~~utilized~~ in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be used ~~utilized~~ under the driving and boating under the influence provisions and related provisions

Florida Senate - 2024 CS for SB 260

591-02394-24 2024260c1

located in this chapter and chapters 322 and 327. The program must ~~shall~~:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.

e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders that ~~which~~ include findings of fact and conclusions of law and that ~~which~~ constitute final agency

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action for the purpose of chapter 120.

j. Enforce compliance with this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. Adopt ~~Promulgate~~ rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing ~~the mandates of~~ this section.

n. Have the authority to approve the type of blood test used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing used ~~utilized~~ under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

~~Nothing in~~ This section does not ~~shall be construed to~~ supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

Section 2. Section 316.1939, Florida Statutes, is amended

to read:

316.1939 Refusal to submit to testing; penalties.—

(1)(a) A person who refuses to submit to a lawful test of his or her breath as required under s. 316.1932(1)(a)1.a. is subject to mandatory placement, at the person’s own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 on all vehicles individually or jointly leased or owned and routinely operated by the person for 1 continuous year for a first refusal when the person qualifies for reinstatement of a permanent or restricted driver license. This subsection applies in addition to any other penalties authorized by this section. The ignition interlock device placement period required by this subsection may run concurrently with any other ignition interlock device placement period required by a court or the department.

(b) Proof of installation of an ignition interlock device required by this subsection must be sent to the department, and verification of the operation of the device in the person’s vehicle must be periodically reported to the department.

(c) The prohibitions and penalties provided in s. 316.1937(5), (6), and (8) apply to a person whose driving privilege is restricted pursuant to this subsection and to an ignition interlock device required by this subsection.

(2)~~(1)~~ A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, and whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327, and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that:~~,~~

1. If he or she refused to submit to a lawful test of his or her breath, his or her privilege to operate a motor vehicle would be suspended for 1 year for a first refusal and that he or she would be subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal on all vehicles that he or she individually or jointly leases or owns and routinely operates when he or she qualifies for reinstatement of a permanent or restricted driver license; or

2. If he or she refused to submit to a lawful ~~such~~ test of his or her urine, his or her privilege to operate a motor vehicle would be suspended for ~~a period of~~ 1 year for a first refusal or~~, in the case of a second or subsequent refusal, for a period of~~ 18 months for a second or subsequent refusal;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath or urine, if his or her driving privilege has been previously suspended or if he or she has

previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer

commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(3)~~(2)~~ The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under subsection (2) ~~this section~~.

(4)~~(3)~~ The disposition of a criminal action under subsection (2) ~~this section~~ does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood is ~~shall be~~ admissible and creates ~~shall create~~ a rebuttable presumption of such suspension.

Section 3. Present subsections (12) through (16) of section 322.2615, Florida Statutes, are redesignated as subsections (13) through (17), respectively, subsection (1) of that section is amended, and a new subsection (12) is added to that section, to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who is driving or in actual physical control of a motor vehicle and who has an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher, or of a person who has refused to submit to a urine test or a test of his or her breath-alcohol or blood-alcohol level. The officer shall take the person’s driver license and issue the person a 10-day temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the officer or the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person’s driver license pursuant to subsection (3).

(b) The suspension under paragraph (a) shall be pursuant to, and the notice of suspension shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath~~,~~ ~~blood, or urine~~ test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test, and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 for 1 continuous year

for a first refusal on all vehicles that he or she individually or jointly leases or owns and routinely operates when he or she qualifies for reinstatement of a permanent or restricted driver license;

b. The driver refused to submit to a lawful blood or urine test and his or her driving privilege is suspended for 1 year for a first refusal or for 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test; or

c.~~b.~~ The driver was driving or in actual physical control of a motor vehicle and had an unlawful blood-alcohol level or breath-alcohol level of 0.08 or higher and his or her driving privilege is suspended for ~~a period of~~ 6 months for a first offense or for ~~a period of~~ 1 year if his or her driving privilege has been previously suspended under this section.

2. The suspension period shall commence on the date of issuance of the notice of suspension.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the date of issuance of the notice of suspension or may request a review of eligibility for a restricted driving privilege under s. 322.271(7).

4. The temporary permit issued at the time of suspension expires at midnight of the 10th day following the date of issuance of the notice of suspension.

5. The driver may submit to the department any materials relevant to the suspension.

(12) If a person whose driver license is suspended for refusal to submit to a lawful breath test has such suspension

invalidated for any reason under this section, the requirement that he or she install an ignition interlock device for refusal to submit to a lawful test of his or her breath under s. 316.1939(1) is waived.

Section 4. Present subsections (13) through (19) of section 322.2616, Florida Statutes, are redesignated as subsections (14) through (20), respectively, subsection (2) of that section is amended, and a new subsection (13) is added to that section, to read:

322.2616 Suspension of license; persons under 21 years of age; right to review.—

(2)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of such person if the person has a blood-alcohol or breath-alcohol level of 0.02 or higher. The officer shall also suspend, on behalf of the department, the driving privilege of a person who has refused to submit to a test as provided by paragraph (b). The officer shall take the person’s driver license and issue the person a 10-day temporary driving permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension.

(b) The suspension under paragraph (a) must be pursuant to, and the notice of suspension must inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath test and his or her driving privilege is suspended for ~~a period of~~ 1 year for a first refusal or for ~~a period of~~ 18 months if his or her driving privilege has been previously suspended as provided in this section as a result of a refusal to submit to a test,

and he or she is subject to mandatory placement, at his or her own expense, of an ignition interlock device approved by the department in the same manner as devices approved by the department in accordance with s. 316.1938 for 1 continuous year for a first refusal on all vehicles that he or she individually or jointly leases or owns and routinely operates when he or she qualifies for reinstatement of a permanent or restricted driver license; or

b. The driver was under the age of 21 and was driving or in actual physical control of a motor vehicle while having a blood-alcohol or breath-alcohol level of 0.02 or higher; and the person’s driving privilege is suspended for ~~a period of~~ 6 months for a first violation, or for ~~a period of~~ 1 year if his or her driving privilege has been previously suspended as provided in this section for driving or being in actual physical control of a motor vehicle with a blood-alcohol or breath-alcohol level of 0.02 or higher.

2. The suspension period commences on the date of issuance of the notice of suspension.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the issuance of the notice of suspension.

4. A temporary permit issued at the time of the issuance of the notice of suspension shall not become effective until after 12 hours have elapsed and will expire at midnight of the 10th day following the date of issuance.

5. The driver may submit to the department any materials relevant to the suspension of his or her license.

(c) When a driver subject to this section has a blood-

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alcohol or breath-alcohol level of 0.05 or higher, the suspension shall remain in effect until such time as the driver has completed a substance abuse course offered by a DUI program licensed by the department. The driver shall assume the reasonable costs for the substance abuse course. As part of the substance abuse course, the program shall conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years of the results of the evaluation. The term “substance abuse” means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If a driver fails to complete the substance abuse education course and evaluation, the driver license shall not be reinstated by the department.

(d) A minor under the age of 18 years proven to be driving with a blood-alcohol or breath-alcohol level of 0.02 or higher may be taken by a law enforcement officer to the addictions receiving facility in the county in which the minor is found to be so driving, if the county makes the addictions receiving facility available for such purpose.

(13) If a person whose driver license is suspended for refusal to submit to a lawful breath test has such suspension invalidated for any reason under this section, the requirement that he or she install an ignition interlock device for refusal to submit to a lawful test of his or her breath under s. 316.1939(1) is waived.

Section 5. Present subsection (5) of section 322.2715, Florida Statutes, is redesignated as subsection (6), subsection (1) of that section is amended, and a new subsection (5) is added to that section, to read:

322.2715 Ignition interlock device.—

(1) Before issuing a permanent or restricted driver license under this chapter, the department shall require the placement of a department-approved ignition interlock device for any person convicted of committing an offense of driving under the influence as specified in subsection (3), or for any person who refused to submit to a lawful test of his or her breath as specified in subsection (5), except that consideration may be given to those individuals having a documented medical condition that would prohibit the device from functioning normally. If a medical waiver has been granted for a ~~convicted~~ person seeking a restricted license, the ~~convicted~~ person shall not be entitled to a restricted license until the required ignition interlock device installation period under subsection (3) or subsection (5) expires, in addition to the time requirements under s. 322.271. If a medical waiver has been approved for a ~~convicted~~ person seeking permanent reinstatement of the driver license, the ~~convicted~~ person must be restricted to an employment-purposes-only license and be supervised by a licensed DUI program until the required ignition interlock device installation period under subsection (3) or subsection (5) expires. An interlock device shall be placed on all vehicles that are individually or jointly leased or owned and routinely operated by the ~~convicted~~ person.

(5) If a person refused to submit to a lawful test of his or her breath as required by s. 316.1932(1)(a)1.a., he or she must install, at his or her own expense, an ignition interlock device on all vehicles individually or jointly leased or owned and routinely operated by the person for 1 continuous year for a

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first refusal upon reinstatement of a permanent or restricted driver license.

Section 6. This act shall take effect October 1, 2024.

2/7/24
Meeting Date

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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260
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name William B. Smith

Phone 305-333-4344

Address 300 E Brevard St.
Street

Email WSmith@FLPBA.org

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:

FL. PBA

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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Meeting Date

Fiscal Policy
Committee

The Florida Senate

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CS/SB 260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Frank (Monte) Stevens

Phone (850) 671-4401

Address 123 S Adams Street
Street

Email stevens@thesoutherngroup.coı

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:
The Auto Club Group (AAA)

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/7/2024
Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB 260
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Garett Berman, Executive Director on behalf of the Florida Prosecuting Attorneys Association

Phone 850-488-3070

Address 107 W. Gaines St. Suite L-047
Street

Email gberman@yourfpaa.org

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:

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/24
Meeting Date

260
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Ignition Interlock Refusal

Name Edward Campbell

Job Title Police officer

Address 234 E 7th Ave
Street

Phone 814-441-4486

Tallahassee FL 32303
City State Zip

Email Edward.Campbell@Talgov.com

Speaking: [x] For [ ] Against [ ] Information

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

Representing Police Officer

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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S-001 (10/14/14)

The Florida Senate

APPEARANCE RECORD

2-7-24
Meeting Date

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SB260
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Kelly Poulsen, Responsibility.org

Phone 571-353-0189

Address 101 Constitution Ave
Street

Email Kelly.Poulsen@responsibility.org

Washington DC 20001
City State Zip

Speaking: [x] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:
Responsibility.org

[ ] 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/24
Meeting Date

~~39~~ 260
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: REFUSAL TO SUBMIT

Name: AARON WAYT

Job Title: LEGISLATIVE CHAIR W/ FL ASSN OF CRIMINAL DEF LAWYERS

Address: Street

City State Zip

Phone: (407) 435-3194

Email: AARON@DONPUMPHREY.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing: FL ASSN OF CRIMINAL DEF LAWYERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

The Florida Senate

APPEARANCE RECORD

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2/7/24
Meeting Date

Fiscal Policy
Committee

260
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Kristen Allen

Phone: 850-681-0061

Address: 1018 Thomasville Road, #101
Street

Email: kristen.allen@madd.org

Tallahassee | FL | 32303
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:

Mothers Against Drunk Driving

☐ 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. 2020-2022JointRules.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 Fiscal Policy

BILL: CS/SB 362

INTRODUCER: Fiscal Policy Committee and Senator Bradley

SUBJECT: Medical Treatment Under the Workers' Compensation Law

DATE: February 9, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Morgan	Brown	HP	**Favorable**
3.	Johnson	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 362 increases the maximum medical reimbursements for physicians and surgical procedures and the maximum fees for expert witnesses under ch. 440, F.S., "Workers Compensation Law" (law). The law requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.

The bill increases the maximum reimbursement allowances (MRA) for physicians and surgical procedures to 200 percent of Medicare. Currently, the maximum reimbursement allowance for a physician licensed under ch. 458, F.S., or ch. 459, F.S., is 110 percent of Medicare and the maximum reimbursement allowance for surgical procedures is 140 percent of Medicare.

In regards to expert medical witnesses, the law currently limits the amount health care providers can be paid for expert testimony during depositions on a workers' compensation claim to $200 per hour, unless they only provided an expert medical opinion following a medical record review or provided direct personal services unrelated to the case in dispute, in which case they are limited to a maximum of $200 per day. The bill increases the maximum hourly amount allowed expert witnesses to $300 per hour. For those expert witnesses subject to the daily rate, the maximum amount allowed is increased to $300 per day.

Implementation of the bill is estimated to result in a 7.3 percent increase (or $286 million) in overall workers' compensation system costs. The estimated impact on state and local governments is indeterminate.

The bill provides an effective date of January 1, 2025.

II. Present Situation:

Florida Workers' Compensation System

Florida's Workers' Compensation Law[1] requires employers to provide injured employees all medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require.[2] The Division of Workers' Compensation within the Department of Financial Services (DFS), provides regulatory oversight of the workers' compensation system in Florida, including the health care delivery system.

Reimbursement for Health Care Providers

Health care providers must receive authorization from the insurer before providing treatment, and submit treatment reports to the insurer.[3] Insurers must reimburse an individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program at either the agreed-upon contract price or the maximum reimbursement allowance in the appropriate schedule.[4] DFS mediates utilization and reimbursement disputes.[5]

A three-member panel (panel) consisting of the Chief Financial Officer (CFO) or his or her designee and two Governor's appointees sets the MRAs.[6] The DFS incorporates the statewide schedules of the MRAs by rule in reimbursement manuals. In establishing the MRA manuals, the panel considers the usual and customary levels of reimbursement for treatment, services, and care; the cost impact to employers for providing reimbursement that ensures that injured workers have access to necessary medical care; and the financial impact of the MRAs on healthcare providers and facilities.[7] Florida law requires the panel to develop MRA manuals that are reasonable, promote the workers' compensation system's health care cost containment and efficiency, and are sufficient to ensure that medically necessary treatment is available for injured workers.[8]

The panel develops four different reimbursement manuals to determine statewide schedules of maximum reimbursement allowances. The health care provider manual limits the maximum reimbursement for licensed physicians to 110 percent of Medicare reimbursement,[9] while reimbursement for surgical procedures is limited to 140 percent of Medicare.[10] The hospital

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[1] Ch. 440, F.S.
[2] Section 440.13(2)(a), F.S.
[3] Section 440.13, F.S.
[4] Section 440.13(12)(a), F.S.
[5] Section 440.13, F.S.
[6] *Id.*
[7] Section 440.13(12)(i), F.S.
[8] *Id.*
[9] Section 440.13(12)(f), F.S.
[10] Section 440.13(12)(g), F.S.

manual sets maximum reimbursement for outpatient scheduled surgeries at 60 percent of charges,[11] while other outpatient services are limited to 75 percent of usual and customary charges.[12] Reimbursement of inpatient hospital care is limited based on a schedule of per diem rates approved by the panel.[13] The ambulatory surgical centers manual limits reimbursement to 60 percent of usual and customary as such services are generally scheduled outpatient surgeries. The prescription drug reimbursement manual limits reimbursement to the average wholesale price plus a $4.18 dispensing fee.[14] Repackaged or relabeled prescription medication dispensed by a dispensing practitioner has a maximum reimbursement of 112.5 percent of the average wholesale price plus an $8.00 dispensing fee.[15] Fees may not exceed the schedules adopted under Ch. 440, F.S., and DFS rule.[16] DFS incorporates the MRAs approved by the Three-Member Panel in reimbursement manuals[17] through the rulemaking process provided by the Administrative Procedures Act.[18]

Expert Witness Fees for Health Care Providers

Chapter 440.13, F.S., limits the amount a health care provider can be paid for expert testimony during depositions on a workers' compensation claim. As an expert medical witness, a workers' compensation health care provider is limited to a maximum $200 per hour. An expert witness who only provided an expert medical opinion following a medical record review or provided direct personal services unrelated to the case in dispute is limited to a maximum witness fee of $200 per day.[19]

III. Effect of Proposed Changes:

Section 1 amends s. 440.13, F.S. Subsection (10) is amended to increase the maximum amount a health care provider can be paid for expert testimony during a deposition on a workers' compensation claim from $200 to $300 per hour. A health care provider that only provides an expert medical opinion following a medical record review or provides direct personal services unrelated to the case in dispute, is limited to a maximum witness fee of $300 rather than $200 per day.

Subsection (12) is amended to increase the maximum reimbursement for a physician licensed under ch. 458, F.S., or ch. 459, F.S., from 110 percent to 200 percent of Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater. The maximum reimbursement for surgical procedures is increased from 140 percent to 200 percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

[11] Section 440.13(12)(d), F.S.
[12] Section 440.13(12)(a), F.S.
[13] *Id.*
[14] Section 440.13(12)(h), F.S.
[15] *Id.*
[16] Section 440.13(13)(b), F.S. DFS also has rulemaking authority under s. 440.591, F.S.
[17] Sections 440.13(12) and 440.13(13), F.S., and Ch. 69L-7, F.A.C.
[18] Ch. 120, F.S.
[19] S. 440.13(10), F.S.

Section 2 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill increases the maximum payments to medical providers who appear as expert medical witnesses in litigated workers' compensation claims.

The bill increases payments to physicians and for surgical procedures (including all scheduled, non-emergency clinical laboratory and radiology services; and outpatient physical, occupational, and speech therapy services). Implementation of the bill would result in an estimated 6.9 percent increase (or $300 million) in overall workers' compensation system costs, as described below.

The National Council on Compensation Insurance, Inc., Analysis of SB 1344[20]

The National Council on Compensation Insurance, Inc., (NCCI) provided the following analysis of the impact of changing maximum reimbursement allowances (MRAs) in the 2020 edition of the Health Care Provider Reimbursement Manual (HCPRM) to 200

[20] NCCI, Analysis of Florida Medical Fee Schedule Changes (2024 Session, HB 161/SB 362) (Feb. 6, 2024). On file with Senate Banking and Insurance Committee.

percent. The current state multiplier for surgical is 140 percent and the current state multiplier for all others is 110 percent. The NCCI estimates that the changes to medical fees schedule would result in an impact of +6.9 percent (+ 300 million) on overall workers compensation system costs.
In addition to physician services, the proposed changes would also impact MRAs for the following hospital outpatient services contained in the Florida Workers' Compensation Reimbursement Manual for Hospitals:

- All scheduled, non-emergency clinical laboratory and radiology services; and
- Outpatient physical, occupational, and speech therapy services.

Overall system costs are based on 2022 net written premium for insurance companies including an estimate of self-insured premium as provided by the Florida Division of Workers' Compensation of the Department of Financial Services. The estimated dollar impact is displayed for illustrative purposes only and calculated as the percentage impact(s) multiplied by $4,355M. This figure does not include the policyholder retained portion of deductible policies, or adjustments for subsequent changes in premium levels. The use of premium as the basis for the dollar impact assumes that expenses and other premium adjustments will be affected proportionally to the change in benefit costs.

Expert Medical Witness Fees

Currently, the reimbursement for an expert medical witness cannot exceed $200/hour. HB 1299/SB 1344 seek to increase the maximum reimbursement amount to $300/hour, an increase of 50 percent (= $300 / $200 – 1). Comprehensive data on expert medical witness payments by employers/insurers is not readily available to NCCI. While the magnitude of the increase in workers compensation system costs resulting from the proposed change in the hourly rate for expert medical witness depositions is uncertain, NCCI anticipates that any such potential increase would be minimal. Minimal is defined in this context to be an impact on overall system costs of less than an increase of 0.2 percent.

C. Government Sector Impact:

See above, in Private Sector Impact. Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 440.13 of the Florida Statutes.

IX. Additional Information:

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

CS by Fiscal Policy on February 7, 2024:
The effective date of the bill is changed from July 1, 2024, to January 1, 2025.

B. Amendments:

None.

142360

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment

Delete line 51
and insert:
Section 2. This act shall take effect January 1, 2025.

By Senator Bradley

6-00214-24 2024362__

A bill to be entitled

An act relating to medical treatment under the Workers' Compensation Law; amending s. 440.13, F.S.; increasing limits on witness fees charged by certain witnesses; increasing maximum reimbursement allowances for physicians and surgical procedures; providing an effective date.

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

Section 1. Subsection (10) and paragraphs (f) and (g) of subsection (12) of section 440.13, Florida Statutes, are amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(10) WITNESS FEES.—Any health care provider who gives a deposition shall be allowed a witness fee. The amount charged by the witness may not exceed $300 ~~$200~~ per hour. An expert witness who has never provided direct professional services to a party but has merely reviewed medical records and provided an expert opinion or has provided only direct professional services that were unrelated to the workers' compensation case may not be allowed a witness fee in excess of $300 ~~$200~~ per day.

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(f) Maximum reimbursement for a physician licensed under chapter 458 or chapter 459 shall be 200 ~~110~~ percent of the reimbursement allowed by Medicare, using appropriate codes and modifiers or the medical reimbursement level adopted by the

6-00214-24 2024362__

three-member panel as of January 1, 2003, whichever is greater.

(g) Maximum reimbursement for surgical procedures shall be 200 ~~140~~ percent of the reimbursement allowed by Medicare or the medical reimbursement level adopted by the three-member panel as of January 1, 2003, whichever is greater.

The department, as requested, shall provide data to the panel, including, but not limited to, utilization trends in the workers' compensation health care delivery system. The department shall provide the panel with an annual report regarding the resolution of medical reimbursement disputes and any actions pursuant to subsection (8). The department shall provide administrative support and service to the panel to the extent requested by the panel. For prescription medication purchased under the requirements of this subsection, a dispensing practitioner shall not possess such medication unless payment has been made by the practitioner, the practitioner's professional practice, or the practitioner's practice management company or employer to the supplying manufacturer, wholesaler, distributor, or drug repackager within 60 days of the dispensing practitioner taking possession of that medication.

Section 2. This act shall take effect July 1, 2024.

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

2/7/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate

APPEARANCE RECORD

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362
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Lyon Phone 222-5702

Address 106 E. College Ave., Ste. 1500 Email clyon@llw-law.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:
Florida Osteopathic Medical Association

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2-7-23

Meeting Date

The Florida Senate
APPEARANCE RECORD

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362

Bill Number or Topic

Fiscal Policy

Committee

Amendment Barcode (if applicable)

Name Jarrod Fowler

Phone 850-224-6496

Address 1430 Piedmont Dr. E

Street

Email jfowler@flmedical.org

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:

Florida Medical Association

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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

THE FLORIDA SENATE

APPEARANCE RECORD

Feb 7, 24 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 362

Meeting Date — Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Workers Comp

Name: DR. Jason Oberstee

Job Title: orthopedic Surgeon

Address: 4504 Rock Bridge Hollow (Street)

Tallahassee (City) FL (State) 32309 (Zip)

Phone: 8502283368

Email: david.oberstee@flhoc.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing: Florida Orthopedic Society

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/7/24
Meeting Date

SB 362
Bill Number (if applicable)

Topic WORKERS' COMP - MEDICAL TREATMENT

Amendment Barcode (if applicable)

Name RICHARD CHAIT

Job Title DIRECTOR OF LEGISLATIVE AFFAIRS - FLORIDA WORKERS ADVOCATES

Address 2030 S. DOUGLAS ROAD, STE 217
Street

CORAL GABLES FL 33134
City State Zip

Phone 305/442 2318/608 2593

Email richard.chait@forTheworkers.com

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

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

Representing FLORIDA WORKERS' ADVOCATES (FWA)

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

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

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

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

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 Fiscal Policy

BILL: CS/SB 366

INTRODUCER: Appropriation Committee on Agriculture, Environment, and General Government; and Senator Yarborough

SUBJECT: Civil Penalties Under the Gas Safety Law of 1967

DATE: February 5, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	**Favorable**
2.	Sanders	Betta	AEG	**Fav/CS**
3.	Schrader	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 366 revises the maximum civil penalties for violations of Florida's Gas Safety Law (part I of ch. 368, F.S.), and rules adopted pursuant to that law, to be substantially similar to the maximum penalties provided under federal pipeline safety regulations. The bill sets the state maximum penalties, until June 30, 2025, to be $266,015 (increased from $25,000) for each violation for each day such violation persists, and $2,660,135, in aggregate, (up from $500,000) for any related series of violations. The bill authorizes the Public Service Commission (PSC) to review the penalties established on an annual basis and revise as necessary in order to maintain its certification with the federal Pipeline and Hazardous Materials Safety Administration.

The bill has an indeterminate, positive impact on state revenues and expenditures. See section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2024.

II. Present Situation:

Florida Public Service Commission

The PSC is an arm of the legislative branch of government.[1] 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.[2] In order to do so, the PSC exercises authority over 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.[3]

Gas Utilities

The PSC has broad jurisdiction over the rates and service of gas utilities.[4] However, the PSC does not fully regulate municipal gas utilities (utilities owned or operated on behalf of a municipality) or gas districts. The PSC does have jurisdiction over these types of utilities with regard to territorial boundaries and safety.[5] Municipally-owned utility rates and revenues are regulated by their respective local governments or local utility boards.

Municipal Gas Utilities and Special Gas Districts in Florida

A municipal gas utility is a gas utility owned and operated by a municipality. Chapter 366, F.S., provides the majority of gas utility regulations for Florida (along with electric utility regulations). 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 27 municipally-owned gas utilities and four special gas districts.[6]

Public Gas Utilities in Florida

There are eight investor-owned natural gas utility companies (gas IOUs) in Florida: Florida City Gas, Florida Division of Chesapeake Utilities, Florida Public Utilities Company (FPUC), FPUC-Fort Meade Division, FPUC-Indiantown Division, Peoples Gas System, 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.[7]

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[1] Section 350.001, F.S.
[2] *See* Florida Public Service Commission, *Florida Public Service Commission Homepage*, http://www.psc.state.fl.us (last visited Jan 16, 2024).
[3] Florida Public Service Commission, *About the PSC*, https://www.psc.state.fl.us/about (last visited Jan 16, 2024).
[4] Section 366.05, F.S.
[5] Florida Public Service Commission (PSC), *About the PSC*, *supra* note 3.
[6] PSC, *2023 Facts and Figures of the Florida Utility Industry*, pg. 13, Apr. 2023 (available at: https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/FactsAndFigures/April%202023.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."
[7] *Id* at 14. 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.

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.[8]

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.[9]

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.[10] Currently, Florida has three 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.[11]

Pipeline and Hazardous Materials Safety Administration

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is part of the United States Department of Transportation. The PHMSA's purpose is to protect the public and the environment by advancing safe transportation of energy and other essential potentially hazardous materials. The PHMSA "establishes national policy, sets and enforces standards, educates, and

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[8] PSC, *2022 Annual Report*, p. 6, *available at*: https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/General/AnnualReports/2022.pdf (last visited Jan. 16, 2024).

[9] *Id*.

[10] Florida Public Service Commission, *2023 Facts and Figures of the Florida Utility Industry*, *supra* note 6, at 13; ss. 368.03 and 368.05, F.S.

[11] *Id.*

conducts research to prevent incidents." The agency is also involved in preparation of the public and first responders to deal with hazardous materials incidents.[12]

The PHMSA's Office of Pipeline Safety

The PHMSA's Office of Pipeline Safety "is responsible for carrying out a national program to ensure the safe, reliable, and environmentally-sound operation of the nation's natural gas and hazardous liquid pipeline transportation system." As part of this responsibility, the Office of Pipeline Safety:

- Develops, proposes, and implements policy initiatives and regulations regarding operation of pipelines;
- Directs education and outreach efforts to promote adoption and the increased use of pipeline safety programs by state and local governments, pipeline operators, and the public; and
- Administers a national pipeline safety program to support compliance with Federal pipeline safety regulations.[13]

The PHMSA's State Programs

Although the PHMSA has ultimate authority over all federal pipeline safety standards (for both interstate and intrastate pipelines), federal law allows states to assume safety authority over intrastate gas pipelines, hazardous liquid pipelines, and underground natural gas storage through certifications and agreements with the PHMSA.[14] Currently, the District of Columbia, Puerto Rico, and all states except Alaska and Hawaii participate in PHMSA's pipeline safety program.[15] Fourteen states participate in the PHMSA's underground natural gas storage program.[16]

To participate in the PHMSA's state programs, states must adopt the minimum federal pipeline safety regulations—currently under 49 C.F.R. s. 100-199.[17] States are free, however, to adopt more stringent regulations, if they so choose, and still participate in the PHMSA's state programs.[18]

Florida Gas Safety Law

Florida's Gas Safety Law of 1967 (part I of ch. 368, F.S.),[19] authorizes the PSC to establish "rules and regulations covering the design, fabrication, installation, inspection, testing and safety standards for installation, operation and maintenance of gas transmission and distribution

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[12] Pipeline and Hazardous Materials Safety Administration (PHMSA), *About [PHMSA]*, https://www.phmsa.dot.gov/about-phmsa/phmsas-mission (last visited Jan. 4, 2024).
[13] Pipeline and Hazardous Materials Safety Administration, *Office of Pipeline Safety*, https://www.phmsa.dot.gov/about-phmsa/offices/office-pipeline-safety (last visited Jan. 16, 2024).
[14] Pipeline and Hazardous Materials Safety Administration, *State Programs Overview*, https://www.phmsa.dot.gov/working-phmsa/state-programs/state-programs-overview (last visited Jan. 16, 2024); 49 U.S.C. s. 60105- 60106.
[15] *Id.*
[16] *Id.* Florida is not one of the states participating in the underground natural gas storage program. Pipeline and Hazardous Materials Safety Administration, *Appendix F—State Program Certification/Agreement Status: CY 2023 States Participating in the Federal/State Underground Natural Gas Safety Program*, https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2023-11/2023-Appendix-F-State-UNGS-Certification-Agreement-Status.pdf (last visited Jan. 16, 2024).
[17] *Id.*
[18] *Id.*
[19] Sections 368.01-368.061, F.S.

systems."[20] Such systems include "gas pipelines, gas compressor stations, gas metering and regulating stations, gas mains, and gas services up to the outlet of the customer's meter set assembly, gas-storage equipment of the closed-pipe type fabricated or forged from pipe or fabricated from pipe and fittings, and gas-storage lines."[21] Section 368.05, F.S., establishes the jurisdiction for the PSC to enforce the Gas Safety Law and authorizes the PSC to adopt rules "covering the design, fabrication, installation, inspection, testing and safety standards for installation, operation and maintenance of gas transmission and distribution systems."

Section 368.061, F.S., establishes the penalties that may be assessed for violations of the Gas Safety Law or the PSC rules implementing the law. The civil penalties authorized under this section are assessed by the PSC and may not exceed $25,000 for each day that a violation exists—up to a maximum aggregate penalty of $500,000 for a related series of violations.[22] The last time these penalties were updated was 1993.[23] These maximum state penalties are significantly less than those authorized by federal law for pipeline safety violations. Currently, as of December 28, 2023, the maximum federal administrative penalty for pipeline safety violations is $266,015 for each day that a violation exists, up to a maximum aggregate penalty of $2,660,135, for a related series of violations.[24]

According to the PSC, the difference in penalties proscribed under federal and Florida law "has been consistently raised by the PHMSA as part of its annual evaluation of the pipeline safety program activities carried out by the [PSC]."[25] If the PHMSA was to determine Florida was not satisfactorily enforcing safety regulation compliance, the PHMSA could reject the PSC's certification after notice and an opportunity for a hearing.[26] With the loss of such certification, the PSC would only be able to conduct safety inspections and identify violations (if an agreement is reached with the PHMSA), but would no longer have the authority to conduct violation enforcement.[27] Instead, the PHMSA would conduct the enforcement of violations.[28]

III. Effect of Proposed Changes:

Section 1 revises the maximum penalties for violations of Florida's Gas Safety Law (part I of ch. 368, F.S.), or rules adopted pursuant to that law, to be $266,015 (increased from $25,000) for each violation for each day such violation persists and $2,660,135 in aggregate (up from $500,000) for any related series of violations until June 30, 2025. This would mirror the maximum fines currently provided under federal law for pipeline safety violations.[29]

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[20] Section 368.03, F.S.
[21] *Id*.
[22] Section 368.061(1), F.S.
[23] *See* ch. 93-035, Laws of Fla.
[24] 49 C.F.R. s. 190.223.
[25] Florida Public Service Commission, *Bill Analysis for SB 366*, Nov. 9, 2023 (on file with the Senate Regulated Industries Committee).
[26] 49 U.SC. s. 60105(f).
[27] 49 U.SC. s. 60105(f); and 49 U.S.C. s. 60106.
[28] Florida Public Service Commission, *Bill Analysis for SB 366*, *supra* note 25 at 2.
[29] On December 28, 2023, the maximum federal fines increased to $266,015 for each day that a violation exists, up to a maximum aggregate penalty of $2,660,135, for a related series of violations. 88 Fed. Reg. 89,560 (Dec. 28, 2023) (codified at 49 C.F.R. s. 190.223).

On or after July 1, 2025, the PSC shall, by rule, annually consider and revise the penalties established based on the Consumer Price Index, penalties established in federal law for pipeline safety violations and it is the intent of the Legislature for the PSC to maintain its pipeline safety violation enforcement certification with the federal Pipeline and Hazardous Materials Safety Administration.

In addition, this section provides the PSC with rulemaking authority to implement the provisions of the bill.

Section 2 provides an effective date of July 1, 2024.

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:

The bill authorizes the PSC to adopt the maximum penalty for a violation of Florida's Gas Safety law, with consideration for various factors. Article II, section 3 of the State Constitution sets forth the separation of powers doctrine. The Court has held, under this doctrine "[t]he Legislature may not delegate the power to enact a law, or to declare what the law shall be, or to exercise an unrestricted discretion in applying a law; but it may enact a law, complete in itself, designed to accomplish a general public purpose..." The Legislature may authorize an administrative body flexibility in the administration of a program, if some "minimal standards and guidelines" are established. The "specificity of the guidelines will depend on the complexity of the subject."[30]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[30] *Avatar Dev. Corp. v. State*, 723 So. 2d 199, 201 (Fla. 1998).

B. Private Sector Impact:

The bill will likely increase the fiscal impact on private sector Gas Safety Law violators in Florida if the PSC raises penalties above the current statutory limit.

C. Government Sector Impact:

The bill has an indeterminate positive impact to state revenues and expenditures.

The bill will likely increase the fiscal impact on local government-owned entities subject to the PSC's jurisdiction if such entities violate Florida's Gas Safety Law and the PSC raises penalties above the current statutory limit.

Per s. 368.061(1), F.S., any penalties assessed may be against real and personal property and are enforceable by the PCS as statutory liens under ch. 85, F.S. Any assessments collected from such penalties are deposited in the General Revenue Fund.

The PSC has indicated only one instance of a violation under s. 368.01-05, F.S., and ch. 25-12, F.A.C.,[31] in the last eight years.[32] The disposition of the one case resulted in a Final Order Approving Joint Settlement Agreement, whereby the parties agreed to a penalty payment of one million dollars.[33]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 368.061 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 Appropriations Committee on Agriculture, Environment, and General Government:
The committee substitute:

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[31] Fla. Admin. Code R. ch. 25-12, *available at* https://www.flrules.org/gateway/ChapterHome.asp?Chapter=25-12 (last visited Jan. 17, 2024).

[32] Email from Lance Watson, Legislative Affairs Director, Public Service Commission, to Michelle Sanders, Legislative Analyst, Senate Appropriations Committee on Agriculture, Environment, and General Government (Jan. 17, 2024) (on file with the Senate Appropriations Committee on Agriculture, Environment, and General Government).

[33] The PSC, Docket No. 150259-GU, Order No. PSC-16-02025-AS-GU, Issued May 19, 2016, *available at* https://www.floridapsc.com/pscfiles/library/filings/2016/03075-2016/03075-2016.pdf

- Increases the state's maximum penalty set forth to match maximum federal pipeline safety fines until June 30, 2025;
- Authorizes the PSC to establish by rule a new maximum penalty with consideration for certain factors beginning July 1, 2025;
- Establishes legislative intent for the PSC to maintain its certification with the Pipeline and Hazardous Materials Safety Administration; and
- Provides the PSC with rulemaking authority.

B. Amendments:

None.

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senator Yarborough

601-02485-24 2024366c1

A bill to be entitled

An act relating to civil penalties under the Gas Safety Law of 1967; amending s. 368.061, F.S.; increasing, until a specified date, the civil penalty amount for violating the Gas Safety Law of 1967; increasing the maximum authorized civil penalty for any related series of violations during such timeframe; requiring the Florida Public Service Commission, after a date certain and at least annually thereafter, to establish and, if necessary, revise maximum penalties by rule based on specified factors; authorizing the commission to adopt rules; providing an effective date.

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

Section 1. Subsection (1) of section 368.061, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

368.061 Penalty.—

(1) A ~~Any~~ person who violates ~~any provision of~~ this part, or any regulation issued hereunder, is ~~shall be~~ subject to a civil penalty not to exceed the following:

(a) Until June 30, 2025, $266,015 ~~$25,000~~ for each violation for each day that such violation persists, except that the maximum civil penalty may ~~shall~~ not exceed $2,660,135 ~~$500,000~~ for any related series of violations.

(b) On or after July 1, 2025, maximum penalties established by the Florida Public Service Commission by rule. In

establishing such penalties, the commission shall consider the penalties established in paragraph (a) and make revisions to such penalties based upon consideration of the Consumer Price Index, penalties established in federal law for pipeline safety violations, and the intent of the Legislature that the commission maintain its certification with the Pipeline and Hazardous Materials Safety Administration, or any of its successor agencies, to enforce pipeline safety. The commission shall review the penalties established in this paragraph at least annually and revise as necessary, using the considerations specified in this paragraph.

(4) The commission may adopt rules to implement this section.

Section 2. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

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2/7/24
Meeting Date

Fiscal Policy
Committee

366
Bill Number or Topic

Amendment Barcode (if applicable)

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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 Propane Gas Association

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/7/2024
Meeting Date

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The Florida Senate

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366
Bill Number or Topic

Amendment Barcode (if applicable)

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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:
Chesapeake Utilities

☐ 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. 2020-2022JointRules.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 Fiscal Policy

BILL:	CS/CS/SB 632
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Agriculture, Environment, and General Government and Senator Simon
SUBJECT:	Taking of Bears
DATE:	February 8, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	**Favorable**
2.	Reagan	Betta	AEG	**Fav/CS**
3.	Carroll	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 632 may be cited as the "Self Defense Act." The bill provides that a person is not subject to any administrative, civil, or criminal penalty for taking a bear with lethal force if the person:

- Reasonably believed that his or her action was necessary to avoid an imminent threat of death or serious bodily injury to himself or herself or to another, an imminent threat of death or serious bodily injury to a pet, or substantial damage to a dwelling;
- Did not intentionally or recklessly place himself or herself or a pet in a situation in which he or she would be likely to need to use lethal force; and
- Notified the Fish and Wildlife Conservation Commission (FWC) within 24 hours after using lethal force to take the bear.

The bill provides that any bear taken under this section must be disposed of by FWC. A person who takes a bear under this section may not possess, sell, or dispose of the bear or its parts. The bill directs FWC to adopt rules to implement this section.

The bill has no fiscal impact on state resources or expenditures.

II. Present Situation:

Florida Fish and Wildlife Conservation Commission

The Florida Constitution grants FWC the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, freshwater aquatic life, and marine life.[1]

The Legislature is constitutionally prohibited from adopting statutes in conflict with rules adopted by FWC to execute its authority. However, all licensing fees for taking wild animal life, freshwater aquatic life, and marine life and all penalties for violating FWC's regulations are prescribed in statute. The Legislature may also enact laws to aid FWC that are consistent with its constitutionally-conferred powers, except for special laws or general laws of local application relating to hunting and fishing.[2]

Florida Black Bear

The Florida black bear (*Ursus americanus floridanus*) is the only bear that lives in Florida.[3] The Florida black bear is a subspecies of the American black bear (*U. americanus*) that historically ranged throughout Florida, southern Georgia, and southern Alabama.[4] Loss of habitat, persecution, and unregulated hunting prior to the mid-20th century caused a severe reduction in the Florida black bear population and range, with an estimated 300-500 bears remaining in the 1970s.[5] As a result of the population decline, FWC classified the Florida black bear as a threatened species in 1974.[6] After more than 35 years of strict statewide protection and management, FWC conducted an evaluation and determined that the Florida black bear was no longer facing a high risk of extinction and removed the Florida black bear from the state threatened list in 2012.[7]

Florida black bears are an ecologically significant species. They are recognized as an umbrella species, because conserving large areas of diverse habitat for bears also conserves habitat for many other species under the "umbrella" of bear conservation.[8] Florida black bears have been an instrumental species in conserving natural habitats and the presence of bears has been cited as justification for land protection efforts in this state. Florida black bears also have a significant impact on plant distribution through seed dispersal and they play an important ecological role as scavengers.[9]

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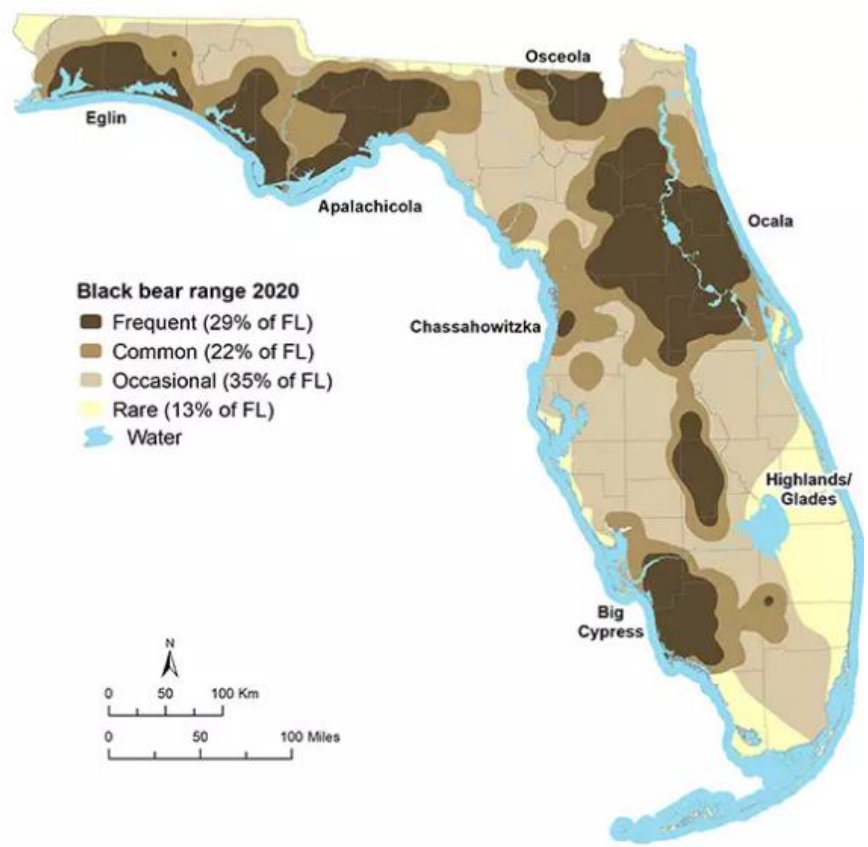
[1] FLA. CONST. art. IV, s. 9.
[2] *Id.*
[3] FWC, *Bear Facts*, https://myfwc.com/wildlifehabitats/wildlife/bear/facts/ (last visited Jan. 4, 2024).
[4] FWC, *Florida Black Bear Management Plan* (2019), 1, *available at* https://myfwc.com/media/21923/2019-florida-black-bear-management-plan.pdf.
[5] *Id.* at 16-17; FWC, *Black Bear Research*, https://myfwc.com/research/wildlife/terrestrial-mammals/bear/ (last visited Jan. 5, 2024).
[6] FWC, *Black Bear Research*.
[7] FWC, *Florida Black Bear Management Plan* at 25.
[8] *Id.* at 8.
[9] *Id.*

Population

Today, the Florida black bear population is comprised of seven distinct sub-populations within the state, including Apalachicola, Eglin, Osceola, Ocala/St. Johns, Chassahowitzka, Highland/Glades, and Big Cypress.[10] During 2014 and 2015, FWC conducted a statewide population assessment for Florida black bears and found that bear populations increased substantially in certain sub-populations and increased by approximately 53 percent statewide.[11] Although the Florida black bear population is growing and its occupied range is expanding, the populations still only occur in seven relatively disconnected sub-groups across the state.[12] The current state-wide population estimate is 4,050 Florida black bears.[13]



For management purposes, each sub-population is separated into a bear management unit (BMU). A BMU is a geographic location bounded by county or state borders containing one of the seven Florida black bear sub-populations.[14] The goal of establishing BMUs is to provide a defined area within which FWC can have a community-focused effort to effectively manage and conserve Florida black bears.[15] FWC manages each BMU to meet specific goals related to bear

[10] *Id.* at xix.
[11] FWC, *Bears by the Numbers*, https://myfwc.com/wildlifehabitats/wildlife/bear/numbers/ (last visited Jan. 5, 2024).
[12] FWC, *Black Bear Research*.
[13] FWC, *Bear Facts*.
[14] FWC, *Bear Management Units*, https://myfwc.com/wildlifehabitats/wildlife/bear/bear-management-units/ (last visited Jan. 5, 2024).
[15] *Id.*

sub-population size, potential habitat, human-bear conflicts, and potential threats, such as vehicle-related mortality.[16]

Florida black bears range from the northeast to the southwest of the state.[17] Some of the sub-populations are small and are impacted by habitat fragmentation, which restricts movement and genetic interchange among sub-populations.[18]

The Florida black bear is adaptable and inhabits a variety of forested habitats but thrives in habitats that provide an annual supply of seasonally available foods, secluded areas for denning, and some degree of protection from humans.[19] The optimal bear habitat in Florida is a thoroughly interspersed mixture of flatwoods, swamps, scrub oak ridges, bayheads, and hammock habitats.[20] Self-sustaining and secure sub-populations of bears are typically found within large, contiguous forested tracts that contain understories of mast[21] or berry-producing shrubs or trees.[22]

Human-Bear Conflicts

As the populations of both humans and bears have expanded in the state, there has been an increase in human-bear conflicts, particularly in residential areas, where bears often search for food.[23] Between 2009 and 2018, FWC euthanized an average of 38 bears annually due to public safety risks.[24] FWC found that a majority of the mortalities were associated with bears seeking out unsecured garbage or other human-provided food sources.[25] In 2022, FWC received 5,907 calls relating to bears,[26] of which 36 percent were considered core complaints.[27]

Bears in close proximity to humans create a range of issues from perceived threats (e.g., seeing a bear on the edge of the forest) to potential threats to public safety (i.e., food conditioned and habituated bears). FWC has attempted to capture and relocate bears; however, this practice was ineffective as there are few remote places where relocated bears will not encounter humans and

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[16] FWC, *Florida Black Bear Management Plan* at 28-29.
[17] FWC, *Current Florida Black Bear Range*, https://myfwc.com/research/wildlife/terrestrial-mammals/bear/current/ (last visited Jan. 5, 2024).
[18] FWC, *Florida Black Bear Management Plan* at 45-46; FWC, *Current Florida Black Bear Range*, https://myfwc.com/research/wildlife/terrestrial-mammals/bear/current/ (last visited Jan. 5, 2024) (Map: black bear range 2020).
[19] *Id.* at 8.
[20] *Id.*
[21] The term "mast" is a general term for edible fruit when eaten by wildlife. Hard mast includes acorn, hickory, pecan, and other nuts while soft mast includes fleshy berries such as palmetto berries, blueberries, and grapes. *Id.* at xvii.
[22] *Id.* at 8.
[23] *Id.* at 29.
[24] *Id.* at 21.
[25] *Id.*
[26] FWC, *Bears by the Numbers*.
[27] "Core complaint" refers to a subset of all the bear-related calls received by FWC that are classified as complaints. Core complaints consist of the following categories: apiary, in building/tent/vehicle, in crops, in feed, in feeder, in garbage, in open garage, in screened porch/patio, property damage, threatened/attacked/killed animal, and threatened/attacked/killed human. Categories of calls related to human-bear interactions that are not classified as core complaints include: animal threatened/attacked/killed bear, dead bear, general question, harvest/hunt, human threatened bear, illegal activity, in area, in hog trap, in tree, in unscreened porch/patio, in yard, misidentified, research, sick/injured bear, unintentionally approached human, and other. FWC, *Bear Management Plan* at xvi.

that are not already occupied by other bears.[28] Additionally, FWC found that 70 percent of relocated bears do not remain in the area to which they are moved, and over half repeat conflict behavior even after they are moved. As a result, FWC's policies place an emphasis on the public's personal responsibility for eliminating attractants and thereby reducing or eliminating conflicts with bears.[29]

In 2015, FWC adopted a statewide resolution highlighting the importance of securing attractants.[30] That same year, the Legislature increased the penalties for feeding wildlife, with enhanced penalties for repeatedly feeding bears and certain other wildlife.[31] Specifically, the law provided penalties for:

- Feeding wildlife with food or garbage;
- Attracting or enticing wildlife with food or garbage; or
- Allowing the placement of food or garbage in a manner that attracts or entices wildlife.[32]

FWC also updated its bear feeding rule to allow law enforcement officers to issue notifications to people who have been in contact with FWC regarding securing their garbage or other attractants and have failed to do so.[33] The notification serves as a formal reminder that the person's actions could be in violation of the law.[34]

Taking of Bears

Through its constitutional authority to regulate wildlife, FWC has adopted rules to regulate the taking[35] of bears. Generally, under FWC rule, a person is prohibited from taking, possessing, injuring, shooting, or selling a black bear or its parts or attempting to engage in such conduct.[36] Such conduct is authorized in certain limited circumstances when FWC issues a permit granting such authorization. Pursuant to its rules, FWC may issue a permit authorizing the intentional take of a bear when it determines such authorization furthers scientific or conservation purposes which will benefit the survival potential of the species or reduce property damage caused by bears.[37]

The rules specifically state that activities that are eligible for a permit include the collection of scientific data needed for conservation or management of the species, as well as taking bears that are causing property damage when non-lethal options cannot provide practical resolution to the damage, and FWC cannot capture the bear.[38] Members of the public may use non-lethal means to

[28] *Id.* at 55.
[29] *Id.*
[30] *See* FWC, *Resolution*, *available at* https://myfwc.com/media/7072/11b-blackbearresolution.pdf.
[31] Chapter 2015-161, s. 12, Laws of Fla.
[32] Section 379.412, F.S.
[33] Chapter 68A-4.001, F.A.C.
[34] Dr. Thomas Easton, Director, Division of Habitat and Species Conservation, FWC, *Black Bear Program Update*, slide 23 (April 2017), *available at* https://myfwc.com/media/18754/3b-bearplanupdate.pdf.
[35] "Take" is defined as taking, attempting to take, pursuing, hunting, molesting, capturing, or killing any wildlife or freshwater or saltwater fish, or their nests or eggs, by any means, whether or not such actions result in obtaining possession of such wildlife or freshwater or saltwater fish or their nests or eggs. Section 379.101(38), F.S.
[36] Rule 68A-4.009(1), F.A.C.
[37] Rule 68A-4.009(2), F.A.C.
[38] Rule 68A-4.009(2)(a)-(b), F.A.C.

scare away bears that may be in a person's yard or rifling through trash. Black bears are not considered nuisance animals that can be taken by a property owner.[39]

Under current law, the defense of necessity is the only applicable defense to an illegal take or attempted take of a Florida black bear. The defense of necessity is limited to the following circumstances:

- The defendant reasonably believed that his or her action was necessary to avoid an imminent threat of death or serious bodily injury to himself or herself or others;
- The defendant did not intentionally or recklessly place himself or herself in a situation in which it would be probable that he or she would be forced to choose the criminal conduct;
- There existed no other adequate means to avoid the threatened harm except the criminal conduct;
- The harm sought to be avoided was more egregious that the criminal conduct perpetrated to avoid it; and
- The defendant ceased the criminal conduct as soon as the necessity or apparent necessity for it ended.[40]

Bear hunting in Florida was first regulated in 1936 and continued through 1994 in certain parts of the state. The most recent bear hunt occurred in October 2015, during which FWC authorized bear hunting in four of the seven BMUs.[41] Each BMU had an established harvest objective, which was based on taking 20 percent of the estimated BMU population and subtracting the annual known mortality.[42] The table below depicts the harvest objectives and actual harvest numbers.[43]

Bear Management Unit	Population Estimate (Estimate Year)	20% of Population Estimate	Known Mortality (3 Year Average)	Harvest Objective	Actual Harvest
East Panhandle	600 ('02)	120	80	40	114
North	550 ('14)	110	10	100	25
Central	1,300 ('14)	260	160	100	143
South	700 ('02)	140	20	80	22
TOTALS	3,150	630	270	320	304

The hunt was authorized to begin October 24, 2015, and FWC had the ability to close the season using a daily cut-off mechanism both within each BMU and statewide. The hunt was spread across 26 counties and 78 percent of bears were taken on private lands. The East Panhandle and Central BMUs were closed beginning October 25, 2015, while the North and South BMUs were closed beginning October 26, 2015.[44]

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[39] Rule 68A-9.010(1)(b)1., F.A.C.

[40] Jess Melkun, FWC, *Bears* (email on file with the Senate Committee on Environment and Natural Resources); *McCoy v. State*, 928 So. 2d 503, 506 (Fla. 4th DCA 2006).

[41] FWC, *2015 Florida Black Bear Hunt Summary Report*, 1, *available at* https://myfwc.com/media/13669/2015-florida-black-bear-hunt-report.pdf.

[42] *Id.* at 2.

[43] *Id.* at 3.

[44] *Id.*

According to FWC, hunting is used as a tool to meet wildlife population objectives, such as slowing population growth rates, rather than to resolve human-bear conflicts, which are better managed by securing items that attract bears.[45]

III. Effect of Proposed Changes:

Section 1 provides that the act may be cited as the "Self Defense Act."

Section 2 creates s. 379.40411, F.S., to provide that a person is not subject to any administrative, civil, or criminal penalty for taking a bear with lethal force if:

- The person reasonably believed that his or her action was necessary to avoid an imminent threat of death or serious bodily injury to himself or herself or to another, an imminent threat of death or serious bodily injury to a pet, or substantial damage to a dwelling as defined in s. 776.013(5), F.S., relating to home protection;[46]
- The person did not intentionally or recklessly place himself or herself or a pet in a situation in which he or she would be likely to need to use lethal force; and
- The person notified the Fish and Wildlife Conservation Commission (FWC) within 24 hours after using lethal force to take the bear.

The bill provides that any bear taken under this section must be disposed of by FWC. A person who takes a bear under this section may not possess, sell, or dispose of the bear or its parts. The bill directs FWC to adopt rules to implement this section.

Section 3 provides an effective date of July 1, 2024.

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.

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[45] FWC, *Florida Black Bear General Hunting FAQs*, https://myfwc.com/wildlifehabitats/wildlife/bear/plan-faqs/hunting-faqs/ (last visited Jan. 5, 2024).

[46] "Dwelling" is defined as a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night. Section 776.013(5), F.S.

E. Other Constitutional Issues:

Article IV, s. 9 of the Florida Constitution establishes the Fish and Wildlife Conservation Commission (FWC) and grants FWC the regulatory and executive powers of the state concerning wild animal life, freshwater aquatic life, and marine life. The bill may implicate this provision because it specifies that the take of a bear is justified under certain circumstances.

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 creates section 379.40411 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Fiscal Policy on February 8, 2024:
The committee substitute provides that a person is not subject to any administrative, civil, or criminal penalty for taking a bear with lethal force if:
- The person reasonably believed that his or her action was necessary to avoid an imminent threat of death or serious bodily injury to himself or herself or to another, an imminent threat of death or serious bodily injury to a pet, or substantial damage to a dwelling;
- The person did not intentionally or recklessly place himself or herself or a pet in a situation in which he or she would be likely to need to use lethal force; and

- The person notified the Fish and Wildlife Conservation Commission within 24 hours after using lethal force to take the bear.

The committee substitute removes the provision allowing the use of lethal force to take a bear without a permit or other required authorization if a person reasonably believes that using such force is necessary to protect his or her private property or to prevent imminent death or great bodily harm to himself or herself or another on his or her private property.

CS by Appropriation Committee on Agriculture, Environment, and General Government on January 26, 2024:
The committee substitute:
- Provides that the use of lethal force to take a bear without a permit or other required authorization is justified if a person reasonably believes that using such force is necessary to protect himself or herself on his or her private property or to prevent imminent death or great bodily harm to himself or herself or another on his or her private property.
- Removes the provisions that luring a bear with food or attractant or provoking a bear to incite an attack are not applicable to the authorization to take a bear.

B. Amendments:

None.

385350

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Simon) recommended the following:

Senate Amendment (with title amendment)

Delete lines 20 - 37
and insert:
of person or certain property.—

(1) A person is not subject to any administrative, civil, or criminal penalty for taking a bear with lethal force if:

(a) The person reasonably believed that his or her action was necessary to avoid an imminent threat of death or serious bodily injury to himself or herself or to another, an imminent

385350

threat of death or serious bodily injury to a pet, or substantial damage to a dwelling as defined in s. 776.013(5);

(b) The person did not lure the bear with food or attractants for an illegal purpose, including, but not limited to, training dogs to hunt bears;

(c) The person did not intentionally or recklessly place himself or herself or a pet in a situation in which he or she would be likely to need to use lethal force as described in paragraph (a); and

(d) The person notified the commission within 24 hours after he or she used lethal force to take the bear.

(2) A bear taken under this section must be disposed of by the commission. A person who takes a bear under this section may not possess, sell, or dispose of the bear or its parts.

(3) The commission shall adopt rules to implement this

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

And the title is amended as follows:

Delete lines 4 - 10

and insert:

taking of bears without certain penalties under specified conditions; requiring the disposal of such bears by the Fish and Wildlife Conservation Commission; prohibiting certain possession, sale, and disposal of such bears or their parts; requiring the

By the Appropriations Committee on Agriculture, Environment, and General Government; and Senator Simon

A bill to be entitled

An act relating to taking of bears; providing a short title; creating s. 379.40411, F.S.; providing for the taking of bears without certain permits or authorizations under specified conditions; providing an exemption from penalties; requiring certain notification of such taking; prohibiting certain possession, sale, and disposal of such bears; requiring the disposal of such bears by the Fish and Wildlife Conservation Commission; requiring the commission to adopt rules; providing an effective date.

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

Section 1. <u>This act may be cited as the "Self Defense Act."</u>

Section 2. Section 379.40411, Florida Statutes, is created to read:

<u>379.40411 Taking of bears; use of lethal force in defense of person.—</u>

<u>(1) The use of lethal force to take a bear without a permit or authorization required under this chapter is justified if a person reasonably believes that using such force is necessary to protect his or her private property or to prevent imminent death or great bodily harm to himself or herself or another on his or her private property.</u>

<u>(2) A person who takes a bear in accordance with subsection (1):</u>

<u>(a) Is not subject to any administrative, civil, or</u>

<u>criminal penalties.</u>

<u>(b) Must notify the commission within 24 hours after the taking.</u>

<u>(c) May not possess, sell, or dispose of the taken bear or its parts.</u>

<u>(3) A bear taken under this section must be disposed of by the commission.</u>

<u>(4) The commission shall adopt rules to implement this section.</u>

Section 3. This act shall take effect July 1, 2024.

THE FLORIDA SENATE

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2-7-24
Meeting Date

632
Bill Number (if applicable)

385350
Amendment Barcode (if applicable)

Topic Bears

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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SB 632
Bill Number or Topic

385350
Amendment Barcode (if applicable)

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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:

Humane Society of the United States

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

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2/7/24
Meeting Date

SB ~~623~~ 632
Bill Number (if applicable)

385350
Amendment Barcode (if applicable)

Topic Self-Defense Act (Bears)

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Speaking: ☐ For ☑ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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2/7/24

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632

Bill Number or Topic

Fiscal

Committee

Amendment Barcode (if applicable)

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PLEASE CHECK ONE OF THE FOLLOWING:

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2/7/24

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SB 632

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 632

Name Alexis Moreira

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Phone

Email

Speaking: ~~For~~ ~~Against~~ ~~Information~~

Waive Speaking: In Support [X] Against

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

Representing

Appearing at request of Chair: Yes [X] No

Lobbyist registered with Legislature: Yes [X] No

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S-001 (10/14/14)

Feb. 7, 2024
Meeting Date

Fiscal Policy
Committee

The Florida Senate
APPEARANCE RECORD

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SB 632
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Johnson Phone 229-349 0230

Address 6812 W HW 98
Street

Port St Joe Fl 32456
City State Zip

Email J4Kat0515@gmail.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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/7/24
Meeting Date

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SB 632
Bill Number or Topic

Fiscal
Committee

Amendment Barcode (if applicable)

Name Savannah Sherman

Phone (631) 965-9310

Address 14 Nelmar Ave
Street

Email sshermanc@fsu.edu

St. Augustine FL 32084
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:

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S-001 (08/10/2021)

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Meeting Date

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SB 632
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Ian Hvozdovich Phone 727-460-1646

Address 328 W. Jefferson St.
Street

Email

Tallahassee FL ~~34768~~ 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:

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The Florida Senate

APPEARANCE RECORD

2/7/24 3:30

Meeting Date

Fiscal Policy 412 kb

Committee

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632

Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID CULLEN

Phone 941-323-2404

Address 816 W THARPE ST

Street

Email CULLENASEA@GMAIL.COM

TALLAHASSEE FL 32303

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:

SIERRA CLUB FLORIDA

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

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S-001 (08/10/2021)

2-7-24
Meeting Date

Fiscal Policy
Committee

The Florida Senate

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632
Bill Number or Topic

Amendment Barcode (if applicable)

Name TRAVIS MOORE Phone 727.421.6902

Address P.O. Box 2020 Email travis@moore-relations.com
Street

St. Petersburg FL 33731
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:
Defenders of Wildlife &
Animal Legal Defense Fund

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

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2-7-24
Meeting Date

632
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Bear Self Defense Bill

Name: Lane Stephens

Job Title:

Address: 111 N Calhoun St
Street

Tallahassee FL 32301
City State Zip

Phone: 850-933-3583

Email: lane@scggov.com

Speaking: [x] For [ ] Against [ ] Information

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

Representing: myself

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

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

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S-001 (10/14/14)

The Florida Senate

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2/7/2024
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SB 632
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Ashley Landwerlen (Pronounced Land-were-len) Phone 808-542-7121

Address 300 S Duval St unit 509
Street

Email landwerlen.ashley@gmail.com

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:

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S-001 (08/10/2021)

2/7/2024
Meeting Date

The Florida Senate

APPEARANCE RECORD

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SB 632 - Killing of Bears
Bill Number or Topic

Amendment Barcode (if applicable)

Lesley Fiscal Policy
Committee

Name Lesley Blackner

Phone 561-818-6621

Address 300 South Duval St #505
Street

Email lesleyblackner@gmail.com

Tallahasee, FL 32301
City State Zip

Reset Form

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:

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S-001 (08/10/2021)

2/7/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate
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SB 632 Bears
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kate Macfall

Phone 850 508-1001

Address 1206 Walter Dr.
Street

Tallahassee FL 32312
City State Zip

Email kmacfall@hsus.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:

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

Humane Society of the United States

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2-7-24
Meeting Date

SB632
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 632

Name Matthew Grocholske

Job Title N/A

Address 500 Ollie Ave
Street

Winter Park FL 32789
City State Zip

Phone 863 224 7501

Email matthewforfl@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing N/A

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2-7-24
Meeting Date

632
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic

Name Darby Butler

Job Title Sheriff Dixie County

Address
Street

City *State* *Zip*

Phone 352-498-1220

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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1/7/24
Meeting Date

The Florida Senate
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SB 632
Bill Number or Topic

Amendment Barcode (if applicable)

Fiscal Policy
Committee

Name Ruth Nichols Phone 239-849-2874

Address 405 Arborlake Dr. Email ruthlarella@comcast.net
Street

Naples, FL 3410
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:

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S-001 (08/10/2021)

Pat Thomas Rm 412 Knott Bldg.

The Florida Senate

Feb 7 2024
Meeting Date

APPEARANCE RECORD

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SB632 Killing of Bears
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Katrina Shadix

Phone 407 702 3576

Address 1011 Seneca Oak Trail
Street

Email BearWarriorsUnited@gmail.com

Geneva FL 32732
City State Zip

Reset Form

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:

Speak on Amendment, too

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THE FLORIDA SENATE

APPEARANCE RECORD

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2-7-24
Meeting Date

632
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Bears

Name Chris Doolin

Job Title Consultant

Address 1018 Thomasville Rd.
Street

Phone 850-508-5492

Tallahassee FLA
City State Zip

Email cdoolin@doolinandassoc.com

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

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

Representing Self - Grandfather

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

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

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S-001 (10/14/14)

2/7/24
Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB 632
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Dana Stetson

Phone 850-668-3839

Address 3218 Albert Dr
Street

Email DanaStetson@yahoo.com

Tallahassee FL 32309
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:

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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 Fiscal Policy

BILL: SB 938

INTRODUCER: Senator Yarborough

SUBJECT: Dentistry

DATE: February 5, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Favorable**
2.	Rossitto-Van Winkle	Yeatman	FP	**Favorable**
3.			RC	

I. Summary:

SB 938 removes the Board of Dentistry (BOD) and the Department of Health (DOH) from the dental examination administration process and deletes obsolete language relating to the process.

The bill revises the dental licensure requirements by:

- Deleting language requiring dental students who have completed the coursework necessary to prepare to pass the American Dental License Examination (ADEX) to wait until their final year of dental school to apply for licensure;
- Deleting the National Board of Dental Examiners (NBDE) dental examination as obsolete, replacing it with the examination administered by the Joint Commission on National Dental Examinations (JCNDE), or its successor organization;
- Deleting an alternate pathway to dental licensure by having an active Florida health access dental license and meeting specific additional practice requirements;
- Deleting language relating to ADEX scores for applicants only being valid for 365 days after the date the official examination results are published;
- Requiring that an out-of-state licensed dentist applying for licensure in Florida must disclose to the BOD during the application process, rather than submit proof to the BOD, whether he or she has been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse.

The bill deletes the requirement that out-of-state licensed dentists applying for Florida licensure who apply for and receive a Florida license, must engage in the full-time practice of dentistry inside the geographic boundaries of the state for one year after licensure, and deletes the provisions related to compliance and enforcement of this requirement.

The bill amends s. 466.009, F.S., to allow any person who fails the examination for licensure as a dentist or dental hygienest to retake the examination.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Practice of Dentistry

The Board of Dentistry (BOD) is the state's regulatory board for the practice of dentistry, dental hygienists, and dental assistants under the Dental Practice Act.[1] A dentist is licensed to examine, diagnose, treat, and care for conditions within the human oral cavity and its adjacent tissues and structures.[2]

Board of Dentistry

The BOD consists of 11 members that appointed by the Governor and confirmed by the Senate, who serve four year terms. Seven members must be licensed dentists actively practicing dentistry in Florida; two members must be licensed dental hygienists actively practicing in Florida; and the remaining two members must be laypersons who are not, and have never been, dentists, dental hygienists, or members of any closely related profession or occupation. At least one member of the BOD must be 60 years of age or older.[3]

Each member dentist must have been actively practicing dentistry, primarily as a clinical practitioner, for at least five years immediately preceding his or her appointment and must remain primarily in clinical practice during all periods of appointment. Each qualified member dentist who is connected with any dental college or community college may serve so long as that connection does not result in the college providing the person's principal source of income, with the exception of the dentist who is on the full-time staff of a Florida teaching hospital.[4] No member may serve more than a total of ten years.[5]

Dental Examinations

As of October 1, 2011, Florida stopped administering its own practical or clinical dental examinations, and the Florida Diagnostic Skills Examination became the American Dental License Examination (ADEX), developed by the American Board of Dental Examiners, Inc., or its successor entity if the successor entity is determined by the BOD to comply with the provision of Section 466.006, F.S. The ADEX is inclusive of a comprehensive diagnostic skills examination covering the full scope of the practice of dentistry.[6, 7]

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[1] Section 466.004, F.S.
[2] Section 466.003(3), F.S.
[3] Section 466.004. F.S.
[4] Section 466.004(1), F.S., referencing s. 456.007, F.S.
[5] *See* note 3.
[6] The American Board of Dental Examiners, Inc., Frequently Asked Questions, *When And How Was ADEX Created?* available at https://adexexams.org/faqs/ (last visited Jan. 8, 2024).
[7] Fla. Admin. Code R. 64B2-2.013(1), (2023).

Dental Licensure

The requirements for dental licensure in Florida are found in s. 466.006, F.S. An applicant must apply to the DOH to take and pass the following examinations:

- The ADEX;[8] and
- An examination on Florida laws and rules relating to dentistry.

To take the ADEX clinical examination, a dental applicant must be at least 18 years of age and must:

- Be a graduate from a dental school accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) or any other dental accrediting entity recognized by the U.S. Department of Education (DOE); or
- Be a dental student in the final year of a program at an ADA-CODA accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations. A passing score on the examination is valid for 365 days;[9] and
- Have completed Part I and II of the National Board Dental Examination (NBDE), administered by the Joint Commission on National Dental Examinations (JCNDE);[10] or have an active health access dental license in this state; and
  - The applicant has 5,000 hours within four consecutive years of clinical practice experience providing direct patient care in a health access setting;[11]; or
  - The applicant is a retired veteran dentist of any branch of the U.S. Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within three consecutive years of clinical practice experience providing direct patient care in a health access setting; or
  - The applicant has provided a portion of his or her salaried time teaching health profession students in any public education setting, including, but not limited to, a community college, college, or university, and has at least 3,000 hours within three consecutive years of clinical practice experience providing direct patient care in a health access setting;
  - The applicant has not been disciplined by the BOD, except for citation offenses or minor violations;
  - The applicant has not reported, or his or her professional liability insurer has not reported, to the Office of Insurance Regulation any claim or action for damages for personal injury alleged to have been caused by error, omission, or negligence in the performance of the licensee's professional services;[12] and
  - The applicant has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession.

[8] Section 466.006, F.S.
[9] Section 466.006, (2)(b)2., F.S. A dental school student who takes the licensure examinations during the student's final year of an approved dental school must have graduated before he or she may be certified for licensure.
[10] American Dental Association, Joint Commission on National Dental Examinations, *Upholding Quality Oral Care For All,* available at https://jcnde.ada.org/ (last visited Jan. 8, 2024).
[11] Section 466.003(14), F.S.
[12] *See* ss. 456.049 and 627.912, F.S.

A dental school graduate from a school not accredited by the ADA CODA, a U.S. DOE-recognized dental accrediting entity, or approved by the BOD, and desiring to take the ADEX, is not entitled to do so until the applicant:

- Demonstrates completion of a program defined by BOD rule at an accredited American dental school and receives either a D.D.S. or D.M.D. from the school; or
- Submits proof of successful completion of at least two consecutive years at a full-time supplemental general dentistry program accredited by the ADA CODA; and a supplemental general dentistry program does not include an advanced education program in a dental specialty.

Current law requires the ADEX clinical dental examination to include the following:

- Comprehensive diagnostic skills examination including an examination, clinical diagnosis and treatment planning;
- Two restorations on a manikin that has typodont teeth with simulated caries as approved by the Commission on Dental Competency Assessments. The board by rule shall determine the class of such restorations;[13]
- Demonstration of periodontal skills on a manikin that has typodont teeth with simulated calculus as approved by the Commission on Dental Competency Assessments;
- Demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges and the utilization of practical methods of evaluation, specifically including the evaluation by the candidate of completed laboratory products such as, but not limited to, crowns and inlays filled to prepared model teeth;
- Demonstration of restorative skills on a manikin on a manikin that has typodont teeth with simulated calculus as approved by the Commission on Dental Competency Assessments;
- Demonstration of restorative skills on a manikin which requires the candidate to complete procedures performed in preparation for a cast restoration;
- Demonstration of endodontic skills; and
- A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its adjacent tissues and structures from photographs, slides, radiographs, or models, pursuant to board rules.[14]

The DOH, in consultation with the BOD, is to plan the times, places, physical facilities, training of personnel, and other arrangements concerning the administration of the examination. The BOD or a duly designated committee, must approve the final plans for the administration of the examination. The BOD may by rule provide for additional procedures to be tested on the licensure examination, provided such procedures are common to the practice of general dentistry. The BOD must establish by rule the passing grade for each procedure and the acceptable variation for examiners. The DOH must require all examiners to attend a mandatory standardization exercise prior to each practical or clinical examination and must employ only those dentists who have substantially adhered to the standard of grading established at the exercise.[15]

[13] *See* Fla. Admin. Code R. 64B5-2.013 (2023).
[14] Section 466.006(5)(a), F.S.
[15] Section 466.006(5)(d), F.S.

The cost of taking the full dental ADEX examination is $2,795 plus ancillary fees.[16]

As an alternative to taking the ADEX in Florida, an applicant may submit scores from an ADEX administered in another state after October 1, 2011, and those results will be recognized as valid in Florida for the purpose of licensure. Those examination results are valid for 365 days after the publication of the official examination results. A passing ADEX score administered out of state is the same required score for passing the ADEX taken in this state.[17]

If an applicant's passing score on the ADEX administered in another state is older than 365 days, such scores are also valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional criteria have been met, that:[18]

- The NBDE, administered by the JCNDE. organization was taken and passed;
- The ADEX was passed after October 1, 2011;
- The dental school graduated from was:
  - Accredited by the ADA-CODA or its successor; or
  - Accredited by any other dental accrediting organization recognized by the U.S. DOE; or
  - A dental school not ADA-CODA accredited, but submits additional proof of:
    - Successful completion of a full-time supplemental general dentistry program accredited by the ADA-CODA of at least two consecutive academic years that provides didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the ADA-CODA; and the supplemental general dentistry program does not include an advanced education program in a dental specialty;
- The applicant possesses a current, valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;
- The applicant submits proof that he or she has never been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse; or has successfully appealed to have his or her name removed from the data banks of these agencies;
- The applicant submits proof of having been consecutively engaged in the full-time practice of dentistry[19] in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico in the five years immediately preceding the date of application for licensure in this state; or if the applicant has been licensed for less than five

[16] The Commission on Dental Competency Assessments (CDCA) - Western Regional Examining Board (WREB) Council of Interstate Testing Agencies (CITA), *ADEX Dental*, available at https://adextesting.org/adex-dental/ (last visited Jan. 8, 2024).
[17] Section 466. 006(4)(b)1, F.S.
[18] Section 466. 006(4)(b)2, F.S.
[19] *See* s. 466. 006(4)(b)2.,e.,II - IV, F.S. The "full-time practice" of dentistry means a minimum of 1,200 hours per year for each and every year in the consecutive five year period or, when applicable, the period since initial licensure, and must include any combination of the following: (1) active clinical practice of dentistry providing direct patient care; (2) full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the ADA-CODA; or (3) full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the ADA-CODA. The BOD must develop rules to determine what type of proof of full time practice is required including cost recoupment and other specific criteria; and an affidavit of the applicant is not sufficient unless attested to by a non-relative with personal knowledge of the applicants practice.

years, the applicant submits proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure;

- The applicant submits documentation that he or she has completed, or will complete before he or she is licensed in Florida, the continuing education requirements for the last full reporting biennium;
- The applicant proves that he or she has never been convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction;
- The applicant has passed the Florida laws and rules examination and the computer-based diagnostic skills examination.[20]

All applicants for dental licensure, relocating to Florida based on ADEX scores administered in another state, are required to engage in the full-time practice of dentistry inside the geographic boundaries of state within one year of receiving their licensure in order to maintain a valid active licensure. This requirements of the full-time practice of dentistry within the geographic boundaries of this state within one year was based on Legislative findings that the state had a substantial interest in improving access to dental care for the state’s underserved citizens and furthering the state’s economic development goals. Licenses issued to dentists on ADEX scores administered in another state expire after the initial issuance if the BOD finds that it did not receive acceptable proof of full-time practice within the geographic boundaries of this state within one year after issuance of the initial license.[21]

Reexamination

If an applicant fails to pass either the diagnostic or clinical examinations in three attempts, the applicant is not eligible for reexamination unless she or he completes additional educational requirements established by the board[22] and pays a reexamination fee set by board.[23]

Continuing Education

Each licensed dentist must complete at least 30 hours of continuing professional education (CE) in dental subjects biennially, in order to renew his or her license; unless he or she is a newly licensed dentist and renewing for the first time. A dentist renewing for the first time is only required to complete two CE hours on prescribing controlled substances and two hours on HIV/AIDS. Other than the first renew, dentists must have 30 CE hours including two hours of CE in the safe and effective prescribing of controlled substances, and two hours on medical errors every renewal period. Dentists must also complete two CE hours in domestic violence every third biennial renewal.

The CE programs must be programs of learning that contribute directly to the dental education of the dentist and may include, but are not limited to, attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions; and research, graduate study, teaching, or service as a clinician. The BOD may also authorize up to three hours of credit

[20] Section 466. 006(4)(b)2, F.S.
[21] Section 466.006(6), F.S.
[22] Section 466.006(5)(a), F.S.
[23] Section 466.009(1), F.S.

biennially for a practice management course that includes principles of ethical practice management, provides substance abuse, effective communication with patients, time management, and burnout prevention instruction. Credits are earned at the rate of one-half credit hour per 25-30 contact minutes of instruction and one credit hour per 50-60 contact minutes of instruction.[24]

III. Effect of Proposed Changes:

SB 938 amends. s. 466.006, F.S., to remove the DOH and the BOD from the dental licensure examination administration process. The bill deletes obsolete language requiring the DOH and the BOD, as applicable, to:

- Consult with the BOD in planning the times, places, physical facilities, training of personnel, and other arrangements concerning the administration of the examination;[25]
- Require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and retain for employment only those dentists who have substantially adhered to the standard of grading established at such exercise;[26]and
- Charge a fee to retake the dental or dental hygiene examination, as set by BOD rule, not to exceed the amount of the original test fee.[27]

The bill amends the dental licensure requirements to delete the obsolete requirement that a dental license applicant apply to the DOH to take the ADEX.[28,29]

The bill requires the DOH to license an applicant if he or she is 18 years of age or older, applies to the DOH, pays a nonrefundable fee not exceeding $100, and the BOD certifies that the applicant meets a specific list of criteria. The bill amends the criteria as follows:

- Deletes the language that dental students who have completed the coursework necessary to prepare for procedures required to pass the ADEX must wait until their final year of the program to apply for licensure;
- Deletes language providing that a dental student's ADEX scores are valid for only 365 days after the date the examinations are completed.
- Deletes the NBDE dental examination and replaces it with the examination administered by the JCNDE,[30] or its successor organization;
- Deletes the alternate pathway to dental licensure for an applicant with an active Florida health access dental license who:

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[24] Section 466.0135, F.S.
[25] Section 466.006(5), F.S.
[26] *Id.*
[27] Section 466.009(1), F.S.
[28] The American Board of Dental Examiners, Inc., Frequently Asked Questions, *When Can I Take the ADEX examination?* available at https://adexexams.org/faqs/ (last visited Jan. 8, 2024). The ADEX examinations are administered by the NERB (DBA) as CDCA-WREB and CITA regional testing agencies. By contacting these testing agencies, they will direct a candidate to the schedule of examinations being administered by that testing agency during the current exam season. The candidate will then have an opportunity to select the particular exam site that best fits his or her needs.
[29] *See* s. 466.006(4)(a), F.S., Florida accepts the ADEX provided that the BOD has, and continues to maintain, representation on the board of directors of the ABDE, the examination development committee of the ABDE, and such other committees of the ABDE as the BOD deems, by rule, appropriate to assure that the standards are maintained organizationally.
[30] Joint Commission on National Dental Examinations, Inc., Integrated National Board Dental Examination (INBDE), The INBDE at a Glance, *About the INBDE*, available at https://jcnde.ada.org/inbde (last visited Jan. 8, 2024).

  - Has least 5,000 hours within four consecutive years of clinical practice experience providing direct patient care in a health access setting;[31]
  - Is a retired veteran dentist from any branch of the United States Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within three consecutive years providing direct patient care in a health access setting; or
  - Has provided a portion of his or her salaried time teaching health profession students in any public education setting, including, but not limited to, a community college, college, or university, and has at least 3,000 hours within three consecutive years of clinical practice experience providing direct patient care in a health access setting; and
  - Has no BOD disciplinary action; no reports of claims for personal injuries or damages to the Office of Insurance Regulation; and no convictions or pleas of nolo contendere, regardless of adjudication, to any felony or misdemeanor related to the practice of a health care profession.
- Deletes language relating to all applicants for dental licensure who have taken the ADEX, either in-state or out-of-state, after October 1, 2011, that those scores are only valid for 365 days after the date the official examination results are published.
- Deletes the additional requirement for applicants who currently have a valid, active unrestricted dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and are submitting ADEX scores taken out-of-state after October 1, 2011, which are older than 365 days, that the applicants must submit proof that he or she has never been reported to the National Practitioner Data Bank, or the Healthcare Integrity and Protection Data Bank.

SB 938 amends s. 466.006(4)(b)2.e.(III), F.S., to direct the BOD to develop rules to determine the type of proof required from applicants who currently have a valid, active, unrestricted dental license in good standing, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, to verify that the applicant has been engaged in the "full-time practice of dentistry"[32] for five years or more; or if less than five years since the date of his or her initial licensure. The rules must include, at a minimum, the type of written proof required as admissible evidence in an administrative proceeding to establish a full-time practice and to recoup to the BOD the cost of verifying full-time practice; further documented by an applicant's annual federal income tax returns filed with the Internal Revenue Service for each year in the preceding five year period or, if the applicant has been practicing for less than five years, the period since initial licensure. The bill deletes from s. 466.006(4)(b)2.e.(III)(D), F.S., the affidavit of an unrelated person who is familiar with the applicant's practice who testifies with particularity that the applicant has been engaged in full-time practice as admissible proof of full-time practice.

The bill amends s. 466.006(4)(b)2.e.(IV), F.S., to authorize the BOD to excuse applicants who currently have a valid, active unrestricted dental license in good standing, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, from the 1,200 hour requirement of s 466.006,(4)(b)2.e.(II), F.S., which defines "full-time

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[31] *See* s. 466.003(14), F.S.
[32] Section 466.006,(4)(e)II, F.S.

practice" as a minimum of 1,200 hours per year in the consecutive five year period, in the event of hardship as defined by the BOD.

The bill deletes language from s. 466.006(4)(b)2.e.(IV), F.S., which specifies that the applicant's affidavit alone is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. The bill further deletes the BOD ability to require the applicant or the applicant's affidavit witnesses to appear before the BOD and give oral testimony under oath, if the BOD deems it necessary to assess their credibility or accuracy.

SB 938 amends s. 466.006(5), F.S., to clarify that the practical examination required under s. 466.006(4), F.S., is the ADEX developed by the American Board of Dental Examiners, Inc., or its successor entity, provided the BOD finds that the successor entity's clinical examination complies with the provisions s.466.006, F.S., and must include, at a minimum, all the required clinical diagnostic and treatment planning set out in s. 466.006(5)(a), F.S.

The bill deletes s. 466.006,(6), F.S., which currently requires dentists licensed and practicing in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and relocating to Florida, who are applying for licensure based on ADEX scores from a state other than Florida, to actually engage in the full-time practice of dentistry inside the geographic boundaries of Florida within one year of receiving Florida licensure. The subsection currently requires proof of full-time practice be provided to the BOD or the dentist's license will expire and requires the dentist to immediately cease and desist from practicing dentistry and surrender his or her license. Any use of the expired license is a felony of the third degree pursuant to s. 466.006(1)(b), F.S., punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 466.009, F.S., to allow any person who fails the examination required under ss. 466.006 or 466.007, F.S., for licensure as a dentist or dental hygienist to retake the examination.

The bill amends s. 466.0135, F.S., to provide that the BOD may authorize up to three hours of credit biennially for a practice management course that may include instruction on principles of ethical practice management, provides substance abuse, effective communication with patients, time management, or burnout prevention instruction. This revision clarifies the content of the course and provides than one or more of the listed subjects may be included, as opposed to the current requirement for all of them to be included.

The bill provides an effective date of July 1, 2024.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 466.006, 466.009, and 466.0135.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Yarborough

A bill to be entitled

An act relating to dentistry; amending s. 466.006, F.S.; deleting the role of the Board of Dentistry in the administration of the licensure examination for dentists; deleting the requirement for the board to establish an examination fee; revising requirements for licensure as a dentist; deleting a time limitation on the validity of certain licensure examination results; conforming provisions to changes made by the act; deleting a requirement that certain applicants for licensure engage in the full-time practice of dentistry inside the geographic boundaries of this state for 1 year after licensure; deleting provisions related to compliance with and enforcement of such requirement; amending s. 466.009, F.S.; conforming a provision to changes made by the act; deleting a board-imposed reexamination fee; amending s. 466.0135, F.S.; revising continuing education requirements for dentists; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1), subsection (2), paragraph (b) of subsection (4), and subsections (5) and (6) of section 466.006, Florida Statutes, are amended to read:

466.006 Examination of dentists.—

(1)

(b) Any person desiring to be licensed as a dentist must ~~shall~~ apply to the department ~~to take the licensure examinations~~

~~and shall verify the information required on the application by oath. The application shall include two recent photographs~~. There is ~~shall be~~ an application fee set by the board which may not ~~to~~ exceed $100 and is ~~which shall be~~ nonrefundable. ~~There shall also be an examination fee set by the board, which shall not exceed $425 plus the actual per applicant cost to the department for purchase of some or all of the examination from the American Board of Dental Examiners or its successor entity, if any, provided the board finds the successor entity’s clinical examination complies with the provisions of this section. The examination fee may be refundable if the applicant is found ineligible to take the examinations.~~

(2) The department shall license an applicant who the board certifies meets all of the following criteria ~~shall be entitled to take the examinations required in this section to practice dentistry in this state if the applicant~~:

(a) Is 18 years of age or older.

(b)1. Is a graduate of a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting entity recognized by the United States Department of Education; or

2. Is a dental student ~~in the final year of a program~~ at ~~such~~ an accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the licensure examinations. ~~With respect to a dental student in the final year of a program at a dental school, a passing score on the examinations is valid for 365 days after the date the~~

~~examinations were completed.~~ A dental school student who takes the licensure examinations during the student's final year of an approved dental school must <u>graduate</u> ~~have graduated~~ before being certified for licensure pursuant to s. 466.011.

(c)~~1.~~ Has successfully completed the <u>examination administered by the Joint Commission on National Dental Examinations or its successor organization</u> ~~National Board of Dental Examiners dental examination; or~~

~~2. Has an active health access dental license in this state; and~~

~~a. The applicant has at least 5,000 hours within 4 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003; the applicant is a retired veteran dentist of any branch of the United States Armed Services who has practiced dentistry while on active duty and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003; or the applicant has provided a portion of his or her salaried time teaching health profession students in any public education setting, including, but not limited to, a community college, college, or university, and has at least 3,000 hours within 3 consecutive years of clinical practice experience providing direct patient care in a health access setting as defined in s. 466.003;~~

~~b. The applicant has not been disciplined by the board, except for citation offenses or minor violations;~~

~~c. The applicant has not filed a report pursuant to s. 456.049; and~~

~~d. The applicant has not been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession~~.

(4) Notwithstanding any other provision of law in chapter 456 pertaining to the clinical dental licensure examination or national examinations, to be licensed as a dentist in this state, an applicant must successfully complete both of the following:

(b) A practical or clinical examination, which must be the American Dental Licensing Examination produced by the American Board of Dental Examiners, Inc., or its successor entity, if any, <u>which</u> ~~that~~ is administered in this state, provided that the board has attained, and continues to maintain thereafter, representation on the board of directors of the American Board of Dental Examiners, the examination development committee of the American Board of Dental Examiners, and such other committees of the American Board of Dental Examiners as the board deems appropriate by rule to assure that the standards established herein are maintained organizationally. ~~A passing score on the American Dental Licensing Examination administered in this state is valid for 365 days after the date the official examination results are published.~~

1. As an alternative to such practical or clinical examination, an applicant may submit scores from an American Dental Licensing Examination previously administered in a jurisdiction other than this state after October 1, 2011, and such examination results <u>are</u> ~~shall be~~ recognized as valid for the purpose of licensure in this state. A passing score on the American Dental Licensing Examination administered out of state

is ~~shall be~~ the same as the passing score for the American Dental Licensing Examination administered in this state. ~~The examination results are valid for 365 days after the date the official examination results are published.~~ The applicant must have completed the examination after October 1, 2011. This subparagraph may not be given retroactive application.

2. If the date of an applicant’s passing American Dental Licensing Examination scores from an examination previously administered in a jurisdiction other than this state under subparagraph 1. is older than 365 days, such scores are nevertheless valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional standards have been met:

a. The applicant completed the American Dental Licensing Examination after October 1, 2011. This sub-subparagraph may not be given retroactive application.~~;~~

b. The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization recognized by the United States Department of Education. Provided, however, if the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least 2 consecutive academic years at such accredited sponsoring institution. Such program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental

Accreditation. For purposes of this sub-subparagraph, a supplemental general dentistry program does not include an advanced education program in a dental specialty.~~;~~

c. The applicant currently possesses a valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.~~;~~

d. The applicant must disclose to the board during the application process if ~~submits proof that~~ he or she has ~~never~~ been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse. This sub-subparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of these agencies.~~;~~

e.(I)(A) The applicant submits proof of having been consecutively engaged in the full-time practice of dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico in the 5 years immediately preceding the date of application for licensure in this state; or

(B) If the applicant has been licensed in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico for less than 5 years, the applicant submits proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure.

(II) As used in this section, “full-time practice” is defined as a minimum of 1,200 hours per year for each ~~and every~~ year in the consecutive 5-year period or, when applicable, the period since initial licensure, and must include any combination of the following:

(A) Active clinical practice of dentistry providing direct patient care.

(B) Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(C) Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(III) The board shall develop rules to determine what type of proof of full-time practice is required and to recoup the cost to the board of verifying full-time practice under this section. Such proof must, at a minimum, be:

(A) Admissible as evidence in an administrative proceeding;

(B) Submitted in writing;

(C) ~~Submitted by the applicant under oath with penalties of perjury attached;~~

~~(D)~~ Further documented by an applicant's annual income tax return filed with the Internal Revenue Service for each year in the preceding 5-year period or, if the applicant has been practicing for less than 5 years, the period since initial licensure ~~affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time~~

~~practice~~; and

(D) ~~(E)~~ Specifically found by the board to be both credible and admissible.

(IV) The board may excuse applicants from the 1,200-hour requirement in the event of hardship, as defined by the board. ~~An affidavit of only the applicant is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath;~~

f. The applicant submits documentation that he or she has completed, or will complete before he or she is licensed in this state, continuing education equivalent to this state's requirements for the last full reporting biennium. ~~;~~

g. The applicant proves that he or she has never been convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction. ~~;~~

h. The applicant has successfully passed a written examination on the laws and rules of this state regulating the practice of dentistry and the computer-based diagnostic skills examination. ~~; and~~

i. The applicant submits documentation that he or she has successfully completed the applicable examination administered by the Joint Commission on National Dental Examinations or its successor organization.

(5)(a) The practical examination required under subsection

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

(4) is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., or its successor entity, if any, provided the board finds that the successor entity’s clinical examination complies with the provisions of this section, and must include, at a minimum, all of the following:

1. A comprehensive diagnostic skills examination covering the full scope of dentistry and an examination on applied clinical diagnosis and treatment planning in dentistry for dental candidates.~~;~~

2. Two restorations on a manikin that has typodont teeth with simulated caries as approved by the Commission on Dental Competency Assessments. The board by rule shall determine the class of such restorations.~~;~~

3. A demonstration of periodontal skills on a manikin that has typodont teeth with simulated calculus as approved by the Commission on Dental Competency Assessments.~~;~~

4. A demonstration of prosthetics and restorative skills in complete and partial dentures and crowns and bridges and the utilization of practical methods of evaluation, specifically including the evaluation by the candidate of completed laboratory products such as, but not limited to, crowns and inlays filled to prepared model teeth.~~;~~

5. A demonstration of restorative skills on a manikin which requires the candidate to complete procedures performed in preparation for a cast restoration.~~;~~

6. A demonstration of endodontic skills.~~; and~~

7. A diagnostic skills examination demonstrating ability to diagnose conditions within the human oral cavity and its

adjacent tissues and structures from photographs, slides, radiographs, or models pursuant to rules of the board. If an applicant fails to pass the diagnostic skills examination in three attempts, the applicant is not eligible for reexamination unless she or he completes additional educational requirements established by the board.

(b) ~~The department shall consult with the board in planning the times, places, physical facilities, training of personnel, and other arrangements concerning the administration of the examination. The board or a duly designated committee thereof shall approve the final plans for the administration of the examination;~~

~~(c)~~ If the applicant fails to pass the clinical examination in three attempts, the applicant is ~~shall~~ not ~~be~~ eligible for reexamination unless she or he completes additional educational requirements established by the board.~~; and~~

(c)~~(d)~~ The board may by rule provide for additional procedures that ~~which~~ are to be tested, provided such procedures are ~~shall be~~ common to the practice of general dentistry. The board by rule shall determine the passing grade for each procedure and the acceptable variation for examiners. ~~No~~ Such rules may not ~~rule shall~~ apply retroactively.

~~The department shall require a mandatory standardization exercise for all examiners prior to each practical or clinical examination and shall retain for employment only those dentists who have substantially adhered to the standard of grading established at such exercise.~~

~~(6)(a) It is the finding of the Legislature that absent a~~

~~threat to the health, safety, and welfare of the public, the relocation of applicants to practice dentistry within the geographic boundaries of this state, who are lawfully and currently practicing dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, based on their scores from the American Dental Licensing Examination administered in a state other than this state, is substantially related to achieving the important state interest of improving access to dental care for underserved citizens of this state and furthering the economic development goals of the state. Therefore, in order to maintain valid active licensure in this state, all applicants for licensure who are relocating to this state based on scores from the American Dental Licensing Examination administered in a state other than this state must actually engage in the full-time practice of dentistry inside the geographic boundaries of this state within 1 year of receiving such licensure in this state. The Legislature finds that, if such applicants do not actually engage in the full-time practice of dentistry within the geographic boundaries of this state within 1 year of receiving such a license in this state, access to dental care for the public will not significantly increase, patients' continuity of care will not be attained, and the economic development goals of the state will not be significantly met.~~

~~(b)1. As used in this section, "full-time practice of dentistry within the geographic boundaries of this state within 1 year" is defined as a minimum of 1,200 hours in the initial year of licensure, which must include any combination of the following:~~

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~~a. Active clinical practice of dentistry providing direct patient care within the geographic boundaries of this state.~~

~~b. Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.~~

~~c. Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation and located within the geographic boundaries of this state.~~

~~2. The board shall develop rules to determine what type of proof of full-time practice of dentistry within the geographic boundaries of this state for 1 year is required in order to maintain active licensure and shall develop rules to recoup the cost to the board of verifying maintenance of such full-time practice under this section. Such proof must, at a minimum:~~

~~a. Be admissible as evidence in an administrative proceeding;~~

~~b. Be submitted in writing;~~

~~c. Be submitted by the applicant under oath with penalties of perjury attached;~~

~~d. Be further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice of dentistry within the geographic boundaries of this state within the last 365 days; and~~

~~e. Include such additional proof as specifically found by~~

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

~~the board to be both credible and admissible.~~

~~3. An affidavit of only the applicant is not acceptable proof of full-time practice of dentistry within the geographic boundaries of this state within 1 year, unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice within the last 365 days. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath.~~

~~(c) It is the further intent of the Legislature that a license issued pursuant to paragraph (a) shall expire in the event the board finds that it did not receive acceptable proof of full-time practice within the geographic boundaries of this state within 1 year after the initial issuance of the license. The board shall make reasonable attempts within 30 days prior to the expiration of such a license to notify the licensee in writing at his or her last known address of the need for proof of full-time practice in order to continue licensure. If the board has not received a satisfactory response from the licensee within the 30-day period, the licensee must be served with actual or constructive notice of the pending expiration of licensure and be given 20 days in which to submit proof required in order to continue licensure. If the 20-day period expires and the board finds it has not received acceptable proof of full-time practice within the geographic boundaries of this state within 1 year after the initial issuance of the license, then the board must issue an administrative order finding that the license has expired. Such an order may be appealed by the former~~

~~licensee in accordance with the provisions of chapter 120. In the event of expiration, the licensee shall immediately cease and desist from practicing dentistry and shall immediately surrender to the board the wallet-size identification card and wall card. A person who uses or attempts to use a license issued pursuant to this section which has expired commits unlicensed practice of dentistry, a felony of the third degree pursuant to s. 466.026(1)(b), punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 2. Subsection (1) of section 466.009, Florida Statutes, is amended to read:

466.009 Reexamination.—

(1) ~~The department shall permit~~ Any person who fails an examination that ~~which~~ is required under s. 466.006 or s. 466.007 may ~~to~~ retake the examination. ~~If the examination to be retaken is a practical or clinical examination, the applicant shall pay a reexamination fee set by rule of the board in an amount not to exceed the original examination fee.~~

Section 3. Paragraph (c) of subsection (1) of section 466.0135, Florida Statutes, is amended to read:

466.0135 Continuing education; dentists.—

(1) In addition to the other requirements for renewal set out in this chapter, each licensed dentist shall be required to complete biennially not less than 30 hours of continuing professional education in dental subjects, with a minimum of 2 hours of continuing education on the safe and effective prescribing of controlled substances. Programs of continuing education shall be programs of learning that contribute directly to the dental education of the dentist and may include, but

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shall not be limited to, attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions; and research, graduate study, teaching, or service as a clinician. Programs of continuing education shall be acceptable when adhering to the following general guidelines:

(c) The board may also authorize up to 3 hours of credit biennially for a practice management course that includes instruction on principles of ethical practice management, ~~provides~~ substance abuse, effective communication with patients, time management, or ~~and~~ burnout prevention ~~instruction~~.

Section 4. This act shall take effect July 1, 2024.

Feb. 7, 2024
Meeting Date

The Florida Senate
APPEARANCE RECORD

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

SB 938
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Joe Anne Hart

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Address 118 East Jefferson St
Street

Tall, FL 32301
City State Zip

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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 Dental Association

☐ 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. 2020-2022JointRules.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 Fiscal Policy

BILL: CS/SB 998

INTRODUCER: Fiscal Policy Committee and Senator Collins

SUBJECT: Sale of Liquefied Petroleum Gas

DATE: February 8, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	**Favorable**
2.	Carroll	Rogers	EN	**Favorable**
3.	Baird	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 998 makes a number of changes with regard to the regulation of liquefied petroleum (LP) gas by the Department of Agriculture and Consumer Services (DACS):

- Provides that a category I liquefied petroleum gas dealer license must include one licensed location, and may include up to two remote bulk storage, and that remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.
- Specifies that a competency exam must be completed within 90 days after the application has been accepted by the DACS.
- Requires that category I or category V qualifiers must have one year of verifiable LP gas experience.
- Provides that a person may not act as a master qualifier for more than one licensee.
- Empowers the DACS to revoke the license of a qualifier or master qualifier who demonstrates a lack of trustworthiness
- Gives the DACS the authority to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of LP gas that is deemed a threat to public health.
- Adjusts language relating to aggregate capacity of containers.
- Requires LP gas technicians to provide their name and qualifier number on all work orders.
- Prohibits anyone other than those authorized from adding or removing gas from a customer's tank, and gives the DACS the authority to adopt rules to provide exceptions for emergencies.
- Revises and clarifies the minimum storage requirement to account for aggregate storage.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

The Present Situation for each section in the bill is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

The Bureau of Compliance within the Department of Agriculture and Consumer Services (DACS) is the primary agency charged with regulating the liquefied petroleum (LP) gas industry, including licensing, inspection, training, and examination requirements, pursuant to Ch. 527, F.S.[1] LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane; propylene; butanes (normal butane or isobutane); and butylenes.[2]

Definitions and Licensure

Section 527.01, F.S., provides definitions for use in ch. 527, F.S., concerning the sale of liquefied petroleum gas.

Pursuant to s. 527.02, F.S., it is unlawful for any person in Florida to engage in any of the following activities without first obtaining a license from the DACS to do so:

- Category I liquefied petroleum gas dealer - any person selling or offering to sell by delivery or at a stationary location any liquefied petroleum gas to the consumer for industrial, commercial, or domestic use; any person leasing or offering to lease, or exchanging or offering to exchange, any apparatus, appliances, and equipment for the use of liquefied petroleum gas; any person designing, installing, servicing, altering, or modifying apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; any person installing carburetion equipment; or any person requalifying cylinders.[3]
- Category II liquefied petroleum gas dispenser - any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid products to the consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, including maintaining a cylinder storage rack at the licensed business location for the purpose of storing cylinders filled by the licensed business for sale or use at a later date.[4]
- Category III liquefied petroleum gas cylinder exchange operator - any person operating a storage facility used for the purpose of storing filled propane cylinders of not more than 43.5 pounds propane capacity or 104 pounds water capacity, while awaiting sale to the consumer,

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[1] *See* The Florida Department of Agriculture and Consumer Services, *Liquefied Petroleum Gas Licenses, available at* https://www.fdacs.gov/Business-Services/LP-Gas-Licenses (last visited Jan. 22, 2024).
[2] Section 527.01(1), F.S.
[3] Section 527.01(6), F.S.
[4] Section 527.01(7), F.S.

or a facility used for the storage of empty or filled containers which have been offered for exchange.[5]

- Category IV dealer in appliances and equipment - any person selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas.[6]
- Category V LP gas installer - any person who is engaged in the liquefied petroleum gas business and whose services include the design, installation, servicing, altering, or modifying of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or natural gas and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum or natural gas.[7]
- Category VI miscellaneous operator - any person who is engaged in operation as a manufacturer of LP gas appliances and equipment; a fabricator, repairer, and tester of vehicles and cargo tanks; a requalifier of LP gas cylinders; or a pipeline system operator.[8]

The sale of liquefied petroleum gas cylinders with a volume of 10 pounds water capacity or 4.2 pounds liquefied petroleum gas capacity or less is exempt. It is a felony of the third degree[9] to intentionally or willfully engage in any of these activities without first obtaining appropriate licensure from the DACS. Each business location of a person having multiple locations must be separately licensed.[10]

Section 1 amends s. 527.01, F.S., to provide definitions for the following terms:

- "Licensed location" means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed, excluding remote bulk storage.
- "Remote bulk storage" means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

Section 2 amends s. 527.02, F.S., to provide that:

- each remote bulk storage location of a category I LP gas dealer must comply with the category I liquefied petroleum gas dealer licensing requirements, and
- a category I LP gas dealer license must include one licensed location, and may include up to two remote bulk storage locations.. Remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.

Qualifiers and Master Qualifiers

A person applying for a license to engage in category I, category II, or category V activities must prove competency by passing a written examination administered by the DACS or its agent with

[5] Section 527.01(8), F.S.
[6] Section 527.01(9), F.S.
[7] Section 527.01(10), F.S.
[8] Section 527.01(11), F.S.
[9] *See* ss. 775.082, 775.083, and 775.084, F.S., which provide that a "felony of the third degree" is punishable by a term of imprisonment not to exceed 5 years, and a fine not to exceed $5,000.
[10] Section 527.02(1), F.S.

a grade of 70 percent or above in each area tested, and each applicant for examination must submit a $20 nonrefundable fee.[11]

Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. Upon successful completion of the competency examination, the DACS must register the examinee.[12]

Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the DACS in order to reestablish qualifier status.[13] Every business organization in license category I, category II, or category V must employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. A person may not act as a qualifier for more than one licensed location.[14] A qualifier for a business must actually function in a supervisory capacity of other company employees performing licensed activities. A separate qualifier is required for every 10 such employees.[15]

In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the DACS one master qualifier who is a full-time employee at the licensed location. This person must be a manager, owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the DACS. The master qualifier requirement is in addition to the requirements of s. 527.0201(1), F.S.[16]

In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer, each applicant must be employed by a licensed category I or category V licensee or an applicant for such license, and each applicant must pass a master qualifier competency examination administered by the DACS or its agent. Master qualifier examinations must be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the DACS a nonrefundable $30 examination fee before the examination.[17]

Upon successful completion of the master qualifier examination, the DACS must issue the examinee a master qualifier registration. A master qualifier may transfer from one licenseholder

[11] Section 527.0201(1), F.S.
[12] Section 527.0201(2), F.S.
[13] Section 527.0201(2)(a), F.S.
[14] Section 527.0201(2)(b), F.S.
[15] Section 527.0201(4), F.S.
[16] Section 527.0201(5), F.S.
[17] Section 527.0201(5)(a), F.S.

to another upon becoming employed by the company and providing a written request to the DACS.[18]

A master qualifier registration expires three years after the date of issuance and may be renewed by submission of documentation of completion of at least 16 hours of approved continuing education courses during the three-year period, proof of employment, and a $30 certificate renewal fee. The DACS must define approved courses of continuing education.[19]

Section 3 amends s. 527.0201(2), F.S., to provide that the examination for competency must be completed within 90 days after the application has been accepted by the DACS.

The bill also provides that in order to apply for certification as a category I or category V qualifier, each applicant must have a minimum of one year of verifiable LP gas experience. A person may not act as a qualifier for more than one location where LP gas activities related to a category I LP gas dealer, a category II LP gas dispenser, or a category V LP gas installer are performed.

A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under ch. 527, F.S., at the licensed location. A separate qualifier is required for every 10 employees performing LP gas activities.

The bill requires that each category I and category V licensee must identify to the DACS one master qualifier who is a full-time employee *at the licensed location.* A person may not act as a master qualifier for more than one licensee.

The bill empowers the DACS to deny, refuse to renew, suspend, or revoke the license of a qualifier or master qualifier who demonstrates a lack of trustworthiness to engage in activities requiring a qualifier identification card as defined by DACS rule.

Powers and Duties of the DACS

The DACS is empowered to enforce all statutory provisions and adopted rules related to:

- The safe handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining of liquefied petroleum gas, liquefied petroleum gas equipment, and liquefied petroleum gas systems.[20]
- Reasonable standards of competency required of persons to safely engage in the business of handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing, or maintaining liquefied petroleum gas, liquefied petroleum gas equipment, or liquefied petroleum gas systems, including, but not limited to, the training, licensure, testing, and qualifying of such persons.[21]

The DACS has the powers and authority expressly conferred on it by, or reasonably implied from, the provisions of ch. 527, F.S., and may conduct such investigations as it may deem proper

[18] Section 527.0201(5)(b), F.S.
[19] Section 527.0201(5)(c), F.S.
[20] Section 527.055(1)(a), F.S.
[21] Section 527.055(1)(b), F.S.

to determine whether any person has violated any provision of ch. 527, F.S., or adopted rule, or to secure information useful in the lawful administration of any law or rule promulgated pursuant to ch. 527, F.S.[22] The DACS may collect, propose, publish, and disseminate information relating to the subject matter of any duties imposed upon it by law.[23]

Section 4 amends s. 527.055, F.S., to provide that the DACS has the powers and authority to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of LP gas from storage that does not comply with ch. 527, F.S, and is deemed a threat to the public health, safety, and welfare.

Bulk Storage Locations

The provisions of ch. 527, F.S., apply to LP gas bulk storage locations when:

- A single container in the bulk storage location has a capacity of 2,000 gallons or more;
- The aggregate container capacity of the bulk storage location is 4,000 gallons or more; or
- A container or containers are installed for the purpose of serving the public the liquid product.[24]

No newly installed container may be placed in operation until it has been inspected and approved by the DACS.[25]

Section 5 amends s. 527.0605(1)(b), F.S., to provide that the provisions of ch. 527, F.S., apply to liquefied petroleum gas bulk storage locations when the aggregate container capacity of the bulk storage location is *more than* 4,000 gallons.

Responsibilities of Persons Engaged in Servicing Liquefied Petroleum Gas Equipment

All persons engaged in the business of servicing, testing, repairing, maintaining, or installing LP gas equipment and systems must initially present proof of licensure to consumers, owners, or end users prior to working on said equipment or systems. Additionally, such persons must subsequently present proof of licensure upon the request of consumers, owners, end users, or persons who have authorized such work.[26]

Any consumer, owner, end user, or person who alters or modifies his or her LP gas equipment or system in any way must, for informational purposes, notify the licensed dealer who next fills or otherwise services his or her LP gas system that such work has been performed. The DACS may promulgate rules prescribing the method of notification. Such notification must be made within a reasonable time prior to the date the liquefied petroleum gas equipment or system is next filled or otherwise serviced in order that the equipment or system may be serviced in a safe manner.[27]

A category I liquefied petroleum gas dealer may not render a consumer's LP gas equipment or system inoperable or discontinue service without providing written or electronic notification to

[22] *See* ss. 527.055(2), and 527.055(3), F.S.
[23] Section 527.055(4), F.S.
[24] Section 527.0605, F.S.
[25] *Id.*
[26] Section 527.067(1), F.S.
[27] Section 527.067(2), F.S.

the consumer at least 5 business days before rendering the LP gas equipment or system inoperable or discontinuing service. This notification does not apply in the event of a hazardous condition known to the category I liquefied petroleum gas dealer.[28]

Section 6 amends s. 527.067, F.S., to add a provision that all persons engaged in the business of servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems must include on all work orders, estimates, invoices, and similar documentation the name and qualifier number of the person performing the work.

Restriction on Use of Containers

A person, other than the owner and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any LP gas container or receptacle for any gas or compound, or for any other purpose.[29]

Section 7 amends s. 527.07, F.S., to add a provision that a person, other than those authorized by the end user, may not add gas to or remove gas from any container or receptacle that contains LP gas purchased or contracted for transfer by, and in the lawful possession of, the end user. The DACS must adopt rules to provide exceptions for emergencies.

Minimum Storage

Every person who engages in the distribution of LP gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining an LP gas license must install, own, or lease a bulk storage filling plant of not less than 18,000 gallons (water capacity) within Florida and must be located within a 75-mile radius of the licensed company's business location. This bulk storage filling plant must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with ch. 527, F.S., for the duration of the license.[30]

A dealer in LP gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements in s. 527.11(1), F.S., if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within Florida permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the DACS to the DACS before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually with the license renewal application. A dealer who does not provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the wholesaler's total storage capacity minus 18,000 gallons (water capacity).[31]

[28] Section 527.067(3), F.S.
[29] Section 527.07, F.S.
[30] Section 527.11(1), F.S.
[31] Section 527.11(2), F.S.

Section 8 amends s. 527.11(1), F.S., to provide that the necessary bulk storage requirement is *aggregate capacity* of not less than 18,000 gallons, and deletes the requirement that the bulk storage be located within 75 miles of the licensed company's business location.

The bill deletes an outdated provision in s. 527.11(2), F.S., and provides that a wholesaler *or a dealer* may not enter into written agreements that allocate an amount that exceeds the total storage capacity minus 18,000 gallons.

Effective Date

Section 9 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 527.01, 527.02, 527.0201, 527.055, 527.0605, 527.067, 527.07, and 527.11 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 Fiscal Policy on February 7, 2024:

- Clarifies that the definition of "licensed location" excludes remote bulk storage.
- Clarifies that each remote bulk storage location of a category I liquefied petroleum gas dealer must comply with the category I liquefied petroleum gas dealer licensing requirements.
- Changes the category I liquefied petroleum gas dealer license requirements to require that they must include one licensed location and may include up to two remote bulk storage locations.
- Provides that in order to apply for certification as a category I or category V qualifier, each applicant must have a minimum of 1 year of verifiable LP gas experience.
- Clarifies that a person may not act as a qualifier for more than one location where LP gas activities related to category I LP gas dealers, category II LP gas dispensers, or category V LP gas installers.
- Clarifies that a qualifier is required for every 10 employees performing liquefied petroleum gas activities.
- Empowers the DACS to revoke the license of a qualifier or master qualifier who demonstrates a lack of trustworthiness.
- Clarifies that the DACS can issue an immediate final order requiring the immediate removal of non-compliant LP gas storage that is deemed a threat to the public health, safety, and welfare.
- Removes a requirement that a person performing certain LP gas work must provide a license number; and gives the DACS rulemaking authority.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (19) and (20) are added to section 527.01, Florida Statutes, to read:

527.01 Definitions.—As used in this chapter:

(19) “Licensed location” means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed,

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excluding remote bulk storage.

(20) “Remote bulk storage” means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

Section 2. Present subsections (3), (4), and (5) of section 527.02, Florida Statutes, are redesignated as subsections (4), (5), and (6), respectively, a new subsection (3) is added to that section, and paragraph (d) is added to present subsection (3) of that section, to read:

527.02 License; penalty; fees.—

(3) Each remote bulk storage location of a category I liquefied petroleum gas dealer must comply with the category I liquefied petroleum gas dealer licensing requirements under subsection (2).

(4)~~(3)~~

(d) A category I liquefied petroleum gas dealer license shall include one licensed location and may include up to two remote bulk storage locations. Remote bulk storage locations must be located within a 75-mile radius of the licensed location and included in the category I liquefied petroleum gas dealer license application.

Section 3. Subsections (2), (4), (5), and (7) of section 527.0201, Florida Statutes, are amended to read:

527.0201 Qualifiers; master qualifiers; examinations.—

(2) Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. The examination for competency must be completed within 90 days after the application has been accepted by the department. Upon successful

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completion of the competency examination, the department shall register the examinee.

(a) Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the department in order to reestablish qualifier status.

(b) Every business organization in license category I, category II, or category V shall employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. In order to apply for certification as a category I or category V qualifier, each applicant must have a minimum of 1 year of verifiable LP gas experience. A person may not act as a qualifier for more than one ~~licensed~~ location where liquefied petroleum gas activities described in s. 527.01(6), (7), or (10) are performed.

(4) A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under this chapter at the licensed location ~~supervisory capacity of other company employees performing licensed activities~~. A separate qualifier shall be required for every 10 ~~such~~ employees performing liquefied petroleum gas activities.

(5) In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the department one master qualifier who is a full-time employee of the licensee at the

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licensed location. This person shall be a manager, owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the department as provided by rule. A person may not act as a master qualifier for more than one license. The master qualifier requirement shall be in addition to the requirements of subsection (1).

(a) In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer as adopted by department rule immediately preceding submission of the application, must be employed by a licensed category I or category V licensee or an applicant for such license, and must pass a master qualifier competency examination administered by the department or its agent. Master qualifier examinations shall be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the department a nonrefundable $30 examination fee before the examination.

(b) Upon successful completion of the master qualifier examination, the department shall issue the examinee a master qualifier registration. A master qualifier may transfer from one licenseholder to another upon becoming employed by the company and providing a written request to the department.

(c) A master qualifier registration expires 3 years after the date of issuance and may be renewed by submission to the department of documentation of completion of at least 16 hours of approved continuing education courses during the 3-year period; proof of employment; and a $30 certificate renewal fee. The department shall define by rule approved courses of continuing education.

(7) The department may deny, refuse to renew, suspend, or revoke any qualifier or master qualifier registration for any of the following causes:

(a) Violation of any provision of this chapter or any rule or order of the department;

(b) Falsification of records relating to the qualifier or master qualifier registration; ~~or~~

(c) Failure to meet any of the renewal requirements; or

(d) Demonstration of a lack of trustworthiness to engage in activities requiring a qualifier identification card as defined by department rule pursuant to s. 527.02(5).

Section 4. Subsection (5) is added to section 527.055, Florida Statutes, to read:

527.055 General powers and duties.—

(5) The department shall have the powers and authority to condemn unsafe equipment and issue an immediate final order requiring the immediate removal of liquefied petroleum gas from storage that does not comply with this chapter and is deemed a threat to the public health, safety, and welfare.

Section 5. Paragraph (b) of subsection (1) of section 527.0605, Florida Statutes, is amended to read:

527.0605 Liquefied petroleum gas bulk storage locations; jurisdiction.—

(1) The provisions of this chapter apply to liquefied

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petroleum gas bulk storage locations when:

(b) The aggregate container capacity of the bulk storage location is more than 4,000 gallons ~~or more~~; or

Section 6. Present subsections (2) and (3) of section 527.067, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

527.067 Responsibilities of persons engaged in servicing liquefied petroleum gas equipment and systems and consumers, end users, or owners of liquefied petroleum gas equipment or systems.—

(2) All persons engaged in the business of servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems shall include on all work orders, invoices, or similar documents the name of the person performing the work and the applicable qualifier number.

Section 7. Section 527.07, Florida Statutes, is amended to read:

527.07 Restriction on use of containers.—

(1) A person, other than the owner and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any liquefied petroleum gas container or receptacle for any gas or compound, or for any other purpose.

(2) A person, other than those authorized by the end user, may not add gas to or remove gas from any container or receptacle that contains liquefied petroleum gas purchased or contracted for transfer by, and in the lawful possession of, the end user. The department shall adopt rules to provide exceptions

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for emergencies.

Section 8. Subsections (1) and (2) of section 527.11, Florida Statutes, are amended to read:

527.11 Minimum storage.—

(1) Every person who engages in the distribution of liquefied petroleum gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining a liquefied petroleum gas license shall install, own, or lease ~~a~~ bulk storage with an aggregate capacity ~~filling plant~~ of not less than 18,000 gallons (water capacity) within the state ~~and shall be located within a 75-mile radius of the licensed company's business location~~. The ~~This~~ bulk storage ~~filling plant~~ must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with this chapter for the duration of the license.

(2) ~~A dealer in liquefied petroleum gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements of subsection (1), if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within this state permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the department to the department before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually~~

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~~with the license renewal application.~~ A dealer who does not provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A dealer or wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the dealer's or wholesaler's total storage capacity minus 18,000 gallons (water capacity).

Section 9. This act shall take effect July 1, 2024.

================= 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 sale of liquefied petroleum gas; amending s. 527.01, F.S.; providing definitions; amending s. 527.02, F.S.; requiring certain remote bulk storage locations to comply with specified requirements; providing requirements for certain licenses; amending s. 527.0201, F.S.; requiring qualifier examinations to be completed within a specified timeframe; providing eligibility criteria for certain qualifier certification; prohibiting a person from acting as a qualifier for more than one location where certain liquefied petroleum gas activities are performed; providing requirements for qualifiers; prohibiting a person from acting as a master qualifier for more than one license; providing a condition under which the Department of Agriculture and Consumer Services may deny, refuse to renew,

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suspend, or revoke a qualifier or master qualifier registration; amending s. 527.055, F.S.; authorizing the department to condemn unsafe equipment and issue certain orders requiring the immediate removal of liquefied petroleum gas from certain storage; amending s. 527.0605, F.S.; revising the applicability of specified provisions for bulk storage locations; amending s. 527.067, F.S.; requiring persons servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems to include specified information on all work orders, invoices, and similar documents; amending s. 527.07, F.S.; prohibiting unauthorized persons from adding gas to or removing gas from certain containers and receptacles; requiring the department to adopt specified rules; amending s. 527.11, F.S.; revising minimum bulk storage requirements for liquefied petroleum gas licenses; removing an exemption from such requirements; prohibiting dealers from entering into certain agreements; providing an effective date.

By Senator Collins

A bill to be entitled

An act relating to the sale of liquefied petroleum gas; amending s. 527.01, F.S.; defining the terms “licensed location” and “remote bulk storage”; amending s. 527.02, F.S.; authorizing up to two remote bulk storage locations for specified licenses; requiring such bulk storage locations to be located within a specified distance of the licensed location; amending s. 527.0201, F.S.; requiring that competency examinations be completed within a specified timeframe; providing eligibility criteria for certification as a qualifier; prohibiting a person from acting as a qualifier for more than one remote bulk storage location; requiring qualifiers to function in a position with specified authority; prohibiting a person from acting as a master qualifier for more than one licensee; amending s. 527.055, F.S.; authorizing the Department of Agriculture and Consumer Services to condemn unsafe equipment and order the immediate removal of liquefied petroleum gas from certain bulk storage locations; amending s. 527.0605, F.S.; revising the applicability of specified provisions for bulk storage locations; amending s. 527.067, F.S.; requiring persons servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems to include specified information on certain documents; amending s. 527.07, F.S.; prohibiting unauthorized persons from adding liquefied petroleum gas to or removing

liquefied petroleum gas from certain containers and receptacles; amending s. 527.11, F.S.; revising minimum bulk storage requirements for liquefied petroleum gas licenses; removing an exemption from such requirements; prohibiting dealers from entering into certain agreements; providing an effective date.

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

Section 1. Subsections (19) and (20) are added to section 527.01, Florida Statutes, to read:

527.01 Definitions.—As used in this chapter:

(19) “Licensed location” means the premises on which category I, category II, category III, category IV, category V, or category VI liquefied petroleum gas operations are performed.

(20) “Remote bulk storage” means the location of liquefied petroleum gas stored for the sole purpose of filling delivery vehicles used in delivery to an end user.

Section 2. Paragraph (d) is added to subsection (3) of section 527.02, Florida Statutes, to read:

527.02 License; penalty; fees.—

(3)

(d) A category I liquefied petroleum gas dealer license may include up to two remote bulk storage locations to meet the minimum bulk storage requirements of s. 527.11. Remote bulk storage locations must be located within 75 miles of the licensed location and included in the category I liquefied petroleum gas dealer license application.

Section 3. Subsections (2), (4), and (5) of section

527.0201, Florida Statutes, are amended to read:

527.0201 Qualifiers; master qualifiers; examinations.—

(2) Application for examination for competency may be made by an individual or by an owner, a partner, or any person employed by the license applicant. The examination for competency must be completed within 90 days after the application has been accepted by the department. Upon successful completion of the competency examination, the department shall register the examinee.

(a) Qualifier registration automatically expires if the individual terminates active employment in the area of examination for a period exceeding 24 months, or fails to provide documentation of continuing education. If the qualifier registration has expired, the individual must apply for and successfully complete an examination by the department in order to reestablish qualifier status.

(b) Every business organization in license category I, category II, or category V shall employ at all times a full-time qualifier who has successfully completed an examination in the corresponding category of the license held by the business organization. In order to apply for certification as a qualifier, each applicant must have a minimum of 1 year of verifiable LP gas experience. A person may not act as a qualifier for more than one licensed or remote bulk storage location.

(4) A qualifier for a business must actually function in a position with authority to monitor and enforce safety provisions under this chapter at the licensed location ~~supervisory capacity of other company employees performing licensed activities~~. A

separate qualifier shall be required for every 10 such employees.

(5) In addition to all other licensing requirements, each category I and category V licensee must, at the time of application for licensure, identify to the department one master qualifier who is a full-time employee of the licensee ~~at the licensed location~~. This person shall be a manager, an owner, or otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the department as provided by rule. A person may not act as a master qualifier for more than one licensee. The master qualifier requirement shall be in addition to the requirements of subsection (1).

(a) In order to apply for certification as a master qualifier, each applicant must have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer as adopted by department rule immediately preceding submission of the application, must be employed by a licensed category I or category V licensee or an applicant for such license, and must pass a master qualifier competency examination administered by the department or its agent. Master qualifier examinations shall be based on Florida's laws, rules, and adopted codes governing liquefied petroleum gas safety, general industry safety standards, and administrative procedures. The applicant must successfully pass the examination with a grade of 70 percent or above. Each applicant for master qualifier registration must submit to the department a nonrefundable $30 examination fee before the examination.

(b) Upon successful completion of the master qualifier examination, the department shall issue the examinee a master qualifier registration. A master qualifier may transfer from one licenseholder to another upon becoming employed by the company and providing a written request to the department.

(c) A master qualifier registration expires 3 years after the date of issuance and may be renewed by submission to the department of documentation of completion of at least 16 hours of approved continuing education courses during the 3-year period; proof of employment; and a $30 certificate renewal fee. The department shall define by rule approved courses of continuing education.

Section 4. Subsection (5) is added to section 527.055, Florida Statutes, to read:

527.055 General powers and duties.—

(5) The department shall have the powers and authority to condemn unsafe equipment and order the immediate removal of liquefied petroleum gas from storage that does not comply with this chapter and is deemed a threat to the public health, safety, and welfare.

Section 5. Subsection (1) of section 527.0605, Florida Statutes, is amended to read:

527.0605 Liquefied petroleum gas bulk storage locations; jurisdiction.—

(1) The provisions of this chapter apply to liquefied petroleum gas bulk storage locations when:

(a) A single container in the bulk storage location has a capacity of 2,000 gallons or more;

(b) The aggregate container capacity of the bulk storage location is more than 4,000 gallons ~~or more~~; or

(c) A container or containers are installed for the purpose of serving the public the liquid product.

Section 6. Present subsections (2) and (3) of section 527.067, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

527.067 Responsibilities of persons engaged in servicing liquefied petroleum gas equipment and systems and consumers, end users, or owners of liquefied petroleum gas equipment or systems.—

(2) All persons engaged in the business of servicing, testing, repairing, maintaining, or installing liquefied petroleum gas equipment and systems shall include on all work orders, estimates, invoices, and similar documentation the name, qualifier number, and license number of the person performing the work.

Section 7. Section 527.07, Florida Statutes, is amended to read:

527.07 Restriction on use of containers.—

(1) A person, other than the owner and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any liquefied petroleum gas container or receptacle for any gas or compound, or for any other purpose.

(2) A person, other than those authorized by the end user, may not add gas to or remove gas from any container or receptacle that contains liquefied petroleum gas purchased or contracted for transfer by, and in the lawful possession of, the end user.

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Section 8. Subsections (1) and (2) of section 527.11, Florida Statutes, are amended to read:

527.11 Minimum storage.—

(1) Every person who engages in the distribution of liquefied petroleum gas for resale to domestic, commercial, or industrial consumers as a prerequisite to obtaining a liquefied petroleum gas license shall install, own, or lease ~~a~~ bulk storage with an aggregate capacity ~~filling plant~~ of not less than 18,000 gallons (water capacity) within this ~~the~~ state ~~and shall be located within a 75-mile radius of the licensed company's business location~~. The ~~This~~ bulk storage ~~filling plant~~ must have loading and unloading provisions solely for the licenseholder and be operated and maintained in compliance with this chapter for the duration of the license.

(2) ~~A dealer in liquefied petroleum gas licensed as of August 31, 2000, who has entered or who enters into a written agreement with a wholesaler that the wholesaler will provide liquefied petroleum gas to the dealer for a period of 12 continuous months is exempt from the requirements of subsection (1), if the wholesaler has at least 18,000 gallons (water capacity) of bulk storage within this state permanently connected for storage, which is used as such for each dealer to whom gas is sold, and if the wholesaler has loading and unloading provisions. Such dealer must provide certification of this agreement on a form provided by the department to the department before her or his license may be issued. The form must be signed by both the wholesaler or his or her agent and the dealer or his or her agent and must be submitted annually with the license renewal application.~~ A dealer who does not

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provide written proof of minimum storage may have her or his license denied, suspended, or revoked. A dealer or wholesaler may not enter into written agreements that allocate an amount of storage that exceeds the dealer's or wholesaler's total storage capacity minus 18,000 gallons (water capacity).

Section 9. This act shall take effect July 1, 2024.

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

The Florida Senate

APPEARANCE RECORD

2/7/24
Meeting Date

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

998
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Dale Calhoun

Phone 8506810496

Address 201 S Monroe St Unit A
Street

Email dale.calhoun@floridagas.rg

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:
Florida Propane Gas Association

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

2/7/2024
Meeting Date

Fiscal Policy
Committee

The Florida Senate
APPEARANCE RECORD

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

998
Bill Number or Topic

Amendment Barcode (if applicable)

Name Larry Williams

Phone 8505211725

Address 215 S. Monroe Street Suite 601
Street

Email lwilliams@gunster.com

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:

Chesapeake Utilities

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 1142
INTRODUCER:	Fiscal Policy Committee and Senator Hooper
SUBJECT:	Occupational Licensing
DATE:	February 8, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Favorable**
2.	Kraemer	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1142 amends s. 489.117, F.S., relating to the registration of specialty contractors, to authorize registered contractors in good standing who have been registered with a local jurisdiction during calendar years 2021, 2022, or 2023, to qualify for a registration when the local jurisdiction has determined not to continue issuing local licenses or exercising disciplinary oversight over such licensees. The bill requires the Construction Industry Licensing Board to issue licenses to eligible applicants in the circumstances specified in the bill.

To be eligible for registration under these circumstances, an applicant must provide:
- Evidence of the prior local registration during 2021, 2022, or 2023;
- Evidence that the local jurisdiction does not have a license type available for the category of work for which the applicant was issued a certificate of registration or local license during 2021, 2022, or 2023, which may include a notification on the website of the local jurisdiction or an e-mail or letter from the local building department;
- The required application fee; and
- Compliance with the insurance and financial responsibility requirements for contractors under current law.

There is no impact expected on local government revenues and expenditures. See Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

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 before January 1, 2021.[1] 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, 2024.[2]

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 within the Department of Professional Regulation. 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.

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, the initial date the local government exception was to expire.

Construction Professional Licenses

Chapter 489, F.S., relates to "contracting," with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction Contracting

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within the DBPR.[3] The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.[4] The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.[5]

"Certified contractors" are individuals who pass the state competency examination and obtain a certificate of competency issued by the DBPR. Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.[6]

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[1] *See* s. 163.211(2), F.S., as enacted by ch. 2021-214, Laws of Fla., popularly known as "HB 735," and amended by ch. 2023-271, Laws of Florida. The exception for local government licensing expires July 1, 2024.
[2] *Id.*
[3] *See* ss. 489.105, 489.107, and 489.113, F.S.
[4] Section 489.107(1), F.S.
[5] Section 489.107, F.S.
[6] *See* ss. 489.105(6)-(8) and (11), F.S.

"Certified specialty contractors" are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.[7]
"Registered contractors" are individuals who have paid the required fee, taken and passed a local competency examination and licensing requirements, if any, and may practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.[8]

In the local jurisdictions that are eliminating local licensing requirements, registered contractors will not be able to meet the current requirements to remain registered with the state, and under current law, they will be required to meet the statewide certification requirements, including an examination, to be able to continue to work in their trade category. Many registered contractors have been in business for many years and have successfully met either the examination or experience requirements, or both, for licensing in their local jurisdictions.

The following table provides examples of CILB licenses for contractors.[9]

Statutory Licenses
• Air Conditioning- Classes A, B, and C • Building • General • Mechanical • Plumbing • Pool/Spa- Classes A, B, and C • Residential • Roofing • Sheet Metal • Solar • Underground Excavation

Current law provides that local governments may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.[10]

However, under current law, a local government, as defined in s. 163.211, F.S., 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(3)(a)-(o) and (q), F.S., 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,

[7] *See* ss. 489.108, 489.113, 489.117, and 489.131, F.S.
[8] Section 489.117, F.S. *See also* s. 489.105(3)(a)-(o), F.S.
[9] *See* s. 489.105(a)-(q), F.S., and Fla. Admin. Code R. 61G4-15.015 through 61G4-15.040 (2021).
[10] Sections 489.117 and 489.131, F.S.

or terrazzo installation; plastering; stuccoing; caulking; and canvas awning and ornamental iron installation.[11]

Further, effective July 1, 2024, local governments are prohibited from issuing and requiring construction licenses that are outside the scope of practice for a certified contractor or certified specialty contractor.[12] Local governments may only collect licensing fees that cover the cost of regulation.[13]

Locally registered contractors who are required to hold a contracting license to practice their profession in accordance with state law must register with the DBPR after obtaining a local license.

However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with the DBPR.[14]

Contractor Licensing Exemptions; Handyman Exemption

More than 20 categories of persons are exempt[15] from the contractor licensing requirements of ch. 489, F.S., including work falling under the so-called handyman exemption, meaning the work is of a "casual, minor, or inconsequential nature," and the total contract price for all labor, materials, and all other items is less than $2,500, subject to certain exceptions.[16]

Contractor Licensing Exemption for Eligible Specialty Contracting Services

In 2022, an exemption from local and state licensing was established by the Legislature for all persons performing certain specialty contracting services under the supervision of a certified or

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[11] *See* ch. 2021-214, Laws of Fla. (HB 735) (Reg. Sess. 2021).
[12] *Id*.
[13] *See* 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/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf (last visited Jan. 13, 2024).
[14] Sections 489.105 and 489.117(4), F.S.
[15] Exemptions provided in s. 489.103, F.S., include: contractors in work on bridges, roads, streets, highways, or railroads, and other services defined by the CILB and the Florida Department of Transportation; employees of licensed contractors, if acting within the scope of the contractor's license, with that licensee's knowledge; certain employees of federal, state, or local governments or districts (excluding school and university boards), under limited circumstances; certain public utilities, on construction, maintenance, and development work by employees; property owners, when acting as their own contractor and providing "direct, onsite supervision" of all work not performed by licensed contractors on one-family or two-family residences, farm outbuildings, or commercial buildings at a cost not exceeding $75,000; work undertaken on federal property or when federal law supersedes part I of ch. 489, F.S.; registered architects and engineers acting within their licensed practice, including those exempt from such licensing, but not acting as a contractor unless licensed under ch. 489, F.S.; work on one-, two-, or three-family residences constructed or rehabilitated by Habitat for Humanity, International, Inc., or a local affiliate, subject to certain requirements; certain disaster recovery mitigation or other organizations repairing or replacing a one-family, two-family or three-family residence impacted by a disaster, subject to certain requirements; and employees of an apartment community or apartment community management company who make minor repairs to existing electric water heaters, electric heating, ventilating, and air-conditioning systems, subject to certain requirements *See* s. 489.103, F.S., for additional exemptions.
[16] *See* s. 489.103(9), F.S., and Fla. Admin. Code R. 61G-12.011(2).

registered commercial pool/spa contractor, a residential pool/spa contractor, or a swimming pool/spa servicing contractor (a licensed pool contractor).[17] A contractual relationship between the supervising contractor and those performing the specialty contracting services is not required (i.e., the performance of such contracting services is outside the business of contracting and need not be undertaken through a contractor/subcontractor relationship).

The services that may be performed by unlicensed persons under the supervision of a licensed pool contractor include the construction, remodeling, repair, or improvement of swimming pools, hot tubs, spas, and interactive water features, as defined in the Florida Building Code (building code).[18] The exemption is not available for persons required to be certified or registered as contractors for specified trade categories described in s. 489.105(3), F.S.,[19] or those in s. 489.505, F.S., relating to electrical and alarm system contracting.

Journeyman Licenses

A journeyman is a skilled worker in a building trade or craft. There is no state requirement for licensure as a journeyman, but the construction and electrical contractor practice acts account for the fact that counties and municipalities issue journeyman licenses. A person with a journeyman license must always work under the supervision of a licensed contractor, but the state does not regulate or issue a license to a journeyman.[20]

Counties and municipalities are expressly authorized by s. 489.1455(1), F.S., to issue journeyman licenses in the plumbing, pipe fitting, mechanical, or HVAC trades, as this authority is not preempted to the state. A tradesman may be licensed as a journeyman in one local jurisdiction and work in multiple jurisdictions (license reciprocity) without having to take another examination or pay an additional licensing fee to qualify to work in the other jurisdictions (county or municipality).[21] If eligible for license reciprocity, a journeyman with a valid, active journeyman license issued by a county or municipality in Florida need not take any additional examinations or pay additional license fees and may work in the:

- Plumbing/pipe fitting, mechanical, or HVAC trades;[22] or
- Electrical and alarm system trades.[23]

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[17] *See* s. 489.117(4)(e), F.S., as enacted by ch. 2022-90, Laws of Florida.

[18] The term "swimming pool" is defined as "[a]ny structure basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing located in a residential area serving four or fewer living units having a depth of 2 feet (610mm) or more at any point as defined in Section 515.25, Florida Statutes, or the body of water is a public pool as defined in Section 514.011, Florida Statutes" (italics omitted). *See* ch. 2 of the 2020 Florida Building Code (7th Edition), available at https://codes.iccsafe.org/content/FLBC2020P1/chapter-2-definitions (last visited Jan. 13, 2024). The current code does not appear to define "interactive water features." However, the described scope of work for certification as a "swimming pool piping specialty contractor" includes construction of "decorative or interactive water displays or areas." *See* Fla. Admin. Code R. 61G4-15.032, relating to the certification requirements of swimming pool piping specialty contractors.

[19] *See* ss. 489.105(3)(a) through (i) and (m) through (o), F.S. The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor.

[20] Sections 489.103, 489.1455, 489.503, and 489.5335, F.S.

[21] Section 489.1455(2), F.S.

[22] Section 489.1455, F.S.

[23] Section 489.5335, F.S.

The statutory criteria for licensure reciprocity between local jurisdictions for journeymen include:[24]

- Scoring at least 75 percent on an approved proctored examination for that construction trade;
- Completing a registered apprenticeship program and demonstrating four years of verifiable practical experience in the particular trade, or alternatively demonstrating six years of such experience in the particular trade;
- Completing coursework approved by the Florida Building Commission specific to the discipline within the required time frame; and
- Not having a license suspended or revoked within the last five years.

A local government may charge up to $25 as a registration fee for reciprocity.[25]

Contractor Grandfathering Provision

Section 489.118, F.S., authorizes the CILB to grandfather, or certify registered contractors with valid local licenses, in one of the contractor categories defined in s. 489.105(3)(a)-(p), F.S., in certain circumstances.[26] However, the CILB does not have the authority to "grandfather" a specialty contractor, defined in s. 489.105(3)(q) F.S., who is a "contractor whose scope of work and responsibility is limited to a particular phase of construction."[27]

III. Effect of Proposed Changes:

The bill revises the registration requirements for registered contractors, to require the CILB to issue a registration to an eligible applicant to engage in the business of a contractor in a specified local jurisdiction, provided each of the following conditions are satisfied:

- The applicant held, in any local jurisdiction in Florida during 2021, 2022, or 2023, a certificate of registration issued by the state, or a local license issued by a local jurisdiction, to perform work in a contractor trade category defined in s. 489.105(3)(a)-(o), F.S.[28]
- The applicant submits all of the following to the CILB:
  - Evidence of the certificate of registration or local license held by the applicant during 2021, 2022, or 2023.
  - Evidence that the specified local jurisdiction does not have a license type available for the category of work for which the applicant was issued a certificate of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an e-mail or letter from the office of the local building official or local building department stating that such license type is not available in that local jurisdiction.

[24] Sections 489.1455 and 489.5335, F.S.
[25] *See* ss. 489.1455, F.S. and 489.5335, F.S.
[26] The specified scopes of work are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, commercial and residential pool/spa contractor, residential pool/spa contractor, swimming pool/spa servicing contractor, plumbing contractor, underground utility and excavation contractor, solar contractor, and pollutant storage systems contractor.
[27] *See* s. 489.118(1), F.S.
[28] The specified scopes of work for the eligible contractor trade categories are identified as general contractor, building contractor, residential contractor, sheet metal contractor, roofing contractor, Class A, B, and C air-conditioning contractor, mechanical contractor, commercial and residential pool/spa contractor, residential pool/spa contractor, swimming pool/spa servicing contractor, plumbing contractor, underground utility and excavation contractor, and solar contractor.

- Evidence that the applicant has submitted the required fee.
- Evidence of compliance with the insurance and financial responsibility requirements of s. 489.115(5), F.S.

Under the bill, an examination is not required for an applicant seeking a registration by supplying the above evidence to the CILB.

The CILB is responsible for disciplining a licensee issued a registration pursuant to the requirements set forth in the bill. The CILB must make such licensure and disciplinary information available through the automated information system provided by the Department of Business and Professional Regulation as required by s. 455.2286, F.S., which provides instant notification to local building departments and other interested parties regarding the status of a licensee’s certification or registration.

Under the bill, the fees for an applicant seeking a registration and renewal of such registration every two years are the same as the fees established by the CILB as set forth in s. 489.109, F.S., relating to applications, registration and renewal, and record making and recordkeeping. The department must provide license, renewal, and cancellation notices pursuant to ss. 455.273 and 455.275, F.S., conforming the procedure that the DBPR uses for such notices.

The bill takes effect July 1, 2024.

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. There is no new fee payable by registered contractors who may choose to apply for a license using the method described in the bill, as they are subject to and must pay fees for initial licenses and for license renewals in current law in order to legally perform contracting services in the state. *See* s. 489.109, F.S., relating to fees applicable to registered contractors.

B. Private Sector Impact:

The method for obtaining a license as a registered contractor authorized in the bill will assist those contractors who chose registration in a local community rather than qualification as a statewide certified contractor, to remain in the workforce when the local jurisdiction determines not to issue local licenses.

C. Government Sector Impact:

The impact on state revenues and expenditures is indeterminate, but depends on the number of contractors who choose the method for obtaining a license as a registered contractor authorized in the bill. Under the bill, the board will be responsible for disciplining a licensee issued a registration pursuant to the requirements set forth in the bill.

The DBPR notes that an online renewal process already exists for online application processing as well as electronic payment of renewal fees, the DBPR provides notices by e-mail to licensees prior to their license renewal periods, and licensees may conveniently renew online through the DBPR's licensing portal.[29] The bill as amended conforms to online processing through the licensing portal, and to DBPR's current practice for handling license, renewal, and cancellation notices, which will avoid a fiscal impact associated with mailing such notices. There is no impact expected on local government revenues and expenditures.[30]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 489.117 of the Florida Statutes.

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[29] *See* Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 1142* at 6 (Jan. 16, 2024) (on file with the Senate Committee on Regulated Industries).
[30] *Id*. at 4.

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 Fiscal Policy Committee on February 7, 2024:
The committee substitute revises for clarity, as suggested by staff of the DBPR, the information to be submitted by an applicant for registration showing that the local jurisdiction does not have a license type available for the applicant's category of work, and conforms the procedure for handling license, renewal and cancellation notices to current DBPR practice for mailing and e-mailing such notices.

B. Amendments:

None.

918130

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete lines 63 - 87
and insert:
have a license type available for the category of work for which the applicant was issued a certification of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an email or letter from the office of the local building official or local building department stating that such license type is not available in

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that local jurisdiction.

c. Evidence that the applicant has submitted the required fee.

d. Evidence of compliance with the insurance and financial responsibility requirements of s. 489.115(5).

An examination is not required for an applicant seeking a registration under paragraph (b).

(c) The board is responsible for disciplining licensees issued a registration under paragraph (b). The board shall make such licensure and disciplinary information available through the automated information system provided pursuant to s. 455.2286.

(d) The fees for an applicant seeking a registration under paragraph (b) and renewal of such registration every 2 years are the same as the fees established by the board for applications, registration and renewal, and record making and recordkeeping, as set forth in s. 489.109. The department shall provide license, renewal, and cancellation notices pursuant to ss. 455.273 and 455.275.

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

And the title is amended as follows:

Delete lines 12 - 13

and insert:

renewal registrations; requiring the department to provide specified license, renewal, and cancellation notices; conforming

By Senator Hooper

A bill to be entitled

An act relating to occupational licensing; amending s. 489.117, F.S.; requiring the Construction Industry Licensing Board within the Department of Business and Professional Regulation to issue registrations to eligible persons under certain circumstances; providing that the board is responsible for disciplining such licensees; requiring the board to make licensure and disciplinary information available through the automated information system; providing for the fees for the issuance of the registrations and renewal registrations; requiring the department to mail registrants renewal applications; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1) and subsection (2) of section 489.117, Florida Statutes, are amended to read:

489.117 Registration; specialty contractors.—

(1)(a) A ~~Any~~ person engaged in the business of a contractor as defined in s. 489.105(3)(a)-(o) must be registered before engaging in business as a contractor in this state, unless he or she is certified. Except as provided in paragraph (2)(b), to be initially registered, the applicant must ~~shall~~ submit the required fee and file evidence of successful compliance with the local examination and licensing requirements, if any, in the

area for which registration is desired. An examination is not required for registration.

(b) 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, if any, and only for the type of work covered by the registration.

(2)(a) Except as provided in paragraph (b), the board may not issue a ~~No~~ new registration ~~may be issued by the board~~ after July 1, 1993, based on any certificate of competency or license for a category of contractor defined in s. 489.105(3)(a)-(o) which is issued by a municipal or county government that does not exercise disciplinary control and oversight over such locally licensed contractors, including forwarding a recommended order in each action to the board as provided in s. 489.131(7). For purposes of this subsection and s. 489.131(10), the board shall determine the adequacy of such disciplinary control by reviewing the local government's ability to process and investigate complaints and to take disciplinary action against locally licensed contractors.

(b) The board shall issue a registration to an eligible applicant to engage in the business of a contractor in a specified local jurisdiction, provided each of the following conditions are satisfied:

1. The applicant held, in any local jurisdiction in this state during 2021, 2022, or 2023, a certificate of registration issued by the state or a local license issued by a local jurisdiction to perform work in a category of contractor defined in s. 489.105(3)(a)-(o).

2. The applicant submits all of the following to the board:

a. Evidence of the certificate of registration or local license held by the applicant as required by subparagraph 1.

b. Evidence that the specified local jurisdiction does not require a license for the category of work for which the applicant was issued a certification of registration or local license during 2021, 2022, or 2023, such as a notification on the website of the local jurisdiction or an email or letter from the office of the local building official or local building department stating that such licensing is not required or available in that local jurisdiction.

c. Evidence that the applicant has submitted the required fee.

d. Evidence of compliance with the insurance and financial responsibility requirements of s. 489.115(5).

An examination is not required for an applicant seeking a registration under paragraph (b).

(c) The board is responsible for disciplining licensees issued a registration under paragraph (b). The board shall make such licensure and disciplinary information available through the automated information system provided pursuant to s. 455.2286.

(d) The fees for an applicant seeking a registration under paragraph (b) and renewal of such registration every 2 years are the same as the fees established by the board for applications, registration and renewal, and record making and recordkeeping, as set forth in s. 489.109. The department shall mail each registrant an application for renewal.

Section 2. This act shall take effect July 1, 2024.

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 Fiscal Policy

BILL: CS/SB 1276

INTRODUCER: Fiscal Policy Committee and Senator Collins

SUBJECT: Litigation Financing

DATE: February 8, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	**Favorable**
2.	Collazo	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1276 creates the "Litigation Investment Safeguards and Transparency Act," to regulate persons participating in legal proceedings funded by litigation financing.

Generally, the bill:

- Prohibits litigation financiers from:
  - Directing the course of legal proceedings.
  - Contracting for a larger share of the proceeds of a legal proceeding than collectively recovered by the plaintiffs.
  - Paying or offering to pay a referral fee or commission to any person.
  - Assigning or securitizing litigation financing agreements.
- Requires attorneys and their clients to make disclosures in connection with any litigation financing agreements or other relationships they have with foreign or domestic litigation financiers.
- Requires litigation financiers to indemnify plaintiffs and their counsel for any adverse costs, attorney fees, damages, or sanctions awarded against them.
- Authorizes courts to take the existence of litigation financing agreements into account when determining whether a class representative or counsel can fairly represent class interests.
- Provides definitions for the term "litigation financing agreement" and other terms.
- Provides for general enforcement of the bill's provisions, including enforcement of the bill's prohibited conduct and indemnification provisions under the Florida Deceptive and Unfair Trade Practices Act.

The bill's disclosure requirements apply to legal proceedings pending on, or commenced on or after, July 1, 2024, and its litigation financing agreement requirements apply to agreements entered into on or after July 1, 2024.

The bill takes effect on July 1, 2024.

II. Present Situation:

Litigation Financing

Generally

Third-party litigation financing is a non-recourse transaction[1] where a funder – known as a "litigation financier" or "litigation funder" – that is not a party to a lawsuit agrees to provide funding to a litigant (typically a plaintiff) or law firm in exchange for an interest in the potential recovery in the lawsuit. Plaintiffs do not have to repay the funding if the lawsuit is not successful.[2]

Litigation financing is available to both the commercial and consumer sectors.[3] In the commercial sector, the funds are provided to sophisticated litigants and used primarily for litigation costs in commercial disputes.[4] Sometimes litigation financiers finance multiple cases belonging to a lawyer or law firm, with the return on invested capital coming from the settlement or judgment of many individual or group of cases. Portfolio funding allows the litigation financier to essentially bankroll all or a portion of a law firm's cases in exchange for a portion of any proceeds. This practice makes litigation funding less risky by allowing funders to spread their risk over multiple cases.[5] As of early 2023, 44 active litigation funders in the U.S. market had a combined $13.5 billion invested in litigation financing.[6]

In the consumer sector, the funds are paid directly to individuals and used primarily for living expenses while the consumer waits for resolution of the civil action or claim that is the subject of

[1] A non-recourse transaction is a financial transaction in which the borrower is not personally liable to the lender, so that the lender can only pursue the collateral to collect what the borrower owes. In other words, the lender does not have a lien on, and cannot seize, the borrower's assets to repay the debt. U.S. Department of the Treasury, Internal Revenue Service, *Resource vs. Nonrecourse Debt*, https://apps.irs.gov/app/vita/content/36/36_02_020.jsp (last visited Jan. 12, 2024).

[2] U.S. Government Accountability Office, *Report to Congressional Requesters, Third-Party Litigation Financing: Market Characteristics, Data, and Trends* (Dec. 2022), 1, available at https://www.gao.gov/assets/gao-23-105210.pdf [hereinafter *Report to Congressional Requesters*]; Bloomberg Law, *How Litigation Finance Works*, Feb. 24, 2020, https://pro.bloomberglaw.com/brief/how-litigation-finance-works/; Ronen Avraham & Anthony Sebok, *An Empirical Investigation of Third Party Consumer Litigation Funding*, 104 CORNELL L. REV. 1133, 1135 fn. 9 (2019), available at https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=4802&context=clr [hereinafter *An Empirical Investigation*].

[3] *Report to Congressional Requesters*, *supra* note 2, at Preface; *An Empirical Investigation*, *supra* note 2, at 1135.

[4] *Id.; see also* Paige Marta Skiba & Jean Xiao, *Consumer Litigation Funding: Just Another Form of Payday Lending?*, 80 LAW AND CONTEMP. PROB. 117, 125 (2017), available at https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4840&context=lcp [hereinafter *Consumer Litigation Funding*].

[5] Curiam, *Portfolio Finance: The Benefits of Portfolio Financing*, https://www.curiam.com/portfolio-finance/ (last visited Jan. 12, 2024).

[6] Sara Merken, *Litigation funders deployed $3.2 billion in U.S. investments last year – report*, Reuters, Feb. 16, 2023, https://www.reuters.com/markets/us/litigation-funders-deployed-32-bln-us-investments-last-year-report-2023-02-16/.

the litigation financing agreement.[7] Industry data suggest that more than half of such consumers have an annual family income of $50,000 or less and lack a college degree, while less than half are homeowners, suggesting that lower-income consumers with access to fewer resources are the primary market for litigation funding agreements.[8]

A consumer can apply for litigation financing any time before resolution of his or her civil action or claim.[9] Unlike a traditional loan, where a lender might look at a consumer's credit score, income, and other indicators of the consumer's ability to pay, a litigation financier looks at the strength of the consumer's civil action or claim, the consumer's likelihood of prevailing at trial or in settlement, and the potential damages a consumer could obtain.[10] A litigation financier also assesses the consumer's attorneys' fees and other debts, such as medical or child support liens,[11] which might take priority over the litigation financier's repayment.[12]

Some Pros and Cons of Litigation Financing

Litigation financing proponents argue that the product provides a necessary funding source for some consumers suffering an unexpected economic loss connected to a pending legal action or claim, giving consumers financial stability and helping them meet immediate personal needs, such as rent, utilities, and groceries.[13] Proponents also point out that, because litigation financing is a non-recourse transaction, if the consumer loses the subject action or claim, he or she owes nothing under a litigation financing agreement, making litigation financing less risky than traditional loans.[14] Additionally, because the agreement obligation is paid only out of the proceeds of a subject action or claim, there are no monthly or upfront payments required before the subject action or claim resolves.[15]

Litigation financing opponents point out that in order to estimate the total amount owed under a litigation financing agreement, including interest[16] and fees, a consumer must accurately predict the date of the subject action or claim's resolution and the amount of any settlement or judgment that will result in the consumer's favor.[17] Because agreement terms may be unclearly stated or require complicated calculations, opponents argue that consumers may end up owing much more

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[7] *Report to Congressional Requesters*, *supra* note 2, at Preface; *An Empirical Investigation*, *supra* note 2, at 1135*; see also Consumer Litigation Funding*, *supra* note 4, at 122.
[8] Eric Schuller, President, Alliance for Responsible Consumer Legal Funding, *Consumer Legal Funding 101: Also Known As…Everything You Wanted To Know About Consumer Legal Funding But Were Afraid to Ask,* presented to the Florida House of Representatives Civil Justice Subcommittee, Dec. 12, 2019, at 134:09 https://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=2443575804_2019121124 [hereinafter *Consumer Legal Funding 101*].
[9] *See Consumer Litigation Funding*, *supra* note 4, at 122.
[10] *Id.; see also Consumer Legal Funding 101*, *supra* note 8, at 1:31:15.
[11] A lien is a claim against property evidencing a debt, obligation, or duty. A lien can be created by judgment, equity, agreement, or statute. 37 FLA. JUR. 2D, *Liens* s. 1.
[12] *See Consumer Litigation Funding*, *supra* note 4, at 123.
[13] *Report to Congressional Requesters*, *supra* note 2, at Preface; The Alliance for Responsible Consumer Legal Funding (ARC), *More than A Trade Association*, http://arclegalfunding.org/ (last visited Jan. 12, 2024).
[14] *See Consumer Legal Funding 101*, *supra* note 8, at 1:29:15; *see also* ARC, *What is Consumer Legal Funding?,* http://arclegalfunding.org/consumer-legal-funding/ (last visited Jan. 12, 2024).
[15] *Id.*
[16] Interest is the cost of borrowing money, expressed as a percentage of the borrowed amount. *See* Anya Martin, *The Interest Rate v. the Annual Percentage Rate*, The Wall Street Journal, May 21, 2015, https://www.wsj.com/articles/the-interest-rate-vs-the-annual-percentage-rate-1432215724.
[17] *See Consumer Litigation Funding*, *supra* note 4, at 126.

than they might have anticipated at the agreement's initiation.[18] Additionally, the interest charged on a litigation financing agreement, even if clearly stated, can be high.[19] A consumer who realizes he or she may owe more than he or she may recover may drive up the defendant's litigation costs by rejecting reasonable settlement offers for a chance to win a larger verdict in court.[20]

Additional Issues and Concerns

There are additional issues and concerns with litigation financing to consider. One issue is the extent to which consumers – especially commercial consumers, but all consumers – risk losing control over their own cases due to litigation financing. For example, last year U.S. food distributor Sysco filed a lawsuit against litigation funder Burford Capital, alleging that it prevented Sysco from accepting reasonable settlements in Sysco's antitrust litigation against chicken, beef, and pork suppliers.[21] Sysco also accused the law firm it hired to handle the antitrust cases of secretly working with Burford by encouraging the company to continue the lawsuits to increase the amount of money the law firm and Burford could make. Burford then counter-sued Sysco. Both sides later came to an agreement and dropped their lawsuits against each other, although publicly available documents show that Burford, through an affiliate it owns, will now have complete control over the antitrust litigation.[22]

Another issue is the extent to which foreign litigation funding could pose risks to U.S. national and economic security interests. Available information suggests that sovereign wealth funds – investment funds owned or controlled by a foreign principal or a foreign principal's agent[23] – and non-U.S. citizens are participating in litigation funding.[24] Such participation could make it possible for foreign entities doing business in the U.S. to harm the U.S. in different ways; for example, by creating competitive advantages over their U.S. competitors by tying up U.S. companies in lengthy and expensive court cases; by gaining access to proprietary and sensitive commercial information through litigation discovery; and by funding litigation on political issues

[18] *Id.* at 137-38.
[19] *Id.* at 122.
[20] *See id.; see also Report to Congressional Requesters*, *supra* note 2, at Preface.
[21] Alison Frankel, *Sysco sues litigation funder Burford, blasts Boies Schiller over $140 million soured deal*, Reuters, Mar. 9, 2023, https://www.reuters.com/legal/legalindustry/sysco-sues-litigation-funder-burford-blasts-boies-schiller-over-140-million-2023-03-09/.
[22] *Id.;* Alison Frankel, *Sysco cedes antitrust claims to litigation funder Burford as two sides drop cases*, Reuters, Jun. 29, 2023, https://www.reuters.com/legal/litigation/column-sysco-cedes-antitrust-claims-litigation-funder-burford-two-sides-drop-2023-06-29/.
[23] *See* Oxford Reference, *Sovereign Wealth Fund*, https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100520417 (last visited Jan. 16, 2024) (providing that a sovereign wealth fund is an investment fund owned by a sovereign nation and managed by a central bank, state pension fund, or official investment company, and that most of the world's largest sovereign wealth funds belong to developing nations, although important funds are also held by Russia and others).
[24] Letter from Senator John Kennedy to U.S. Attorney General Merrick B. Garland and U.S. Supreme Court Chief Justice Roberts, Jan. 6, 2023, available at https://www.kennedy.senate.gov/public/_cache/files/0/7/077acc52-6622-453b-b9a5-bbecd358e136/32C50A661400A5B670DC1D48B8D75E73.letter-to-ag-garland-cheif-justice-roberts.pdf; Letter from Georgia Attorney General Christopher M. Carr et al., to U.S. Attorney General Merrick B. Garland et al., Re: Threats Posed by Third-Party Litigation Funding, Dec. 22, 2022, available at https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2022/pr22-55-letter.pdf.

that divide the U.S. public.[25] In a recent letter to the chief judges of Florida's three federal districts, U.S. Senators Marco Rubio and Rick Scott expressed concern that the "potential impacts of allowing unfettered and undisclosed foreign [third-party litigation funding] throughout the judiciary could be severe, unless properly addressed."[26]

Still another issue is how much litigation financiers recover from the cases they finance compared to the plaintiffs they are funding. In some cases, litigation financiers have recovered significantly more money than the plaintiffs. In a 2023 television interview, Burford's CEO, Christopher Bogart, admitted that although "it doesn't happen very often … it certainly can happen" that Burford recovers more money than the person who was wronged.[27]

Potential Impact on Attorney-Client and Work Product Privileges

Uncertainty exists as to whether an attorney can discuss a litigation financing agreement with a litigation financier without waiving the attorney-client[28] or work product[29] privileges. Such privileges are typically waived or limited when protected information is shared with a third party, but attorney-financier communications may be necessary for a litigation financier to evaluate a consumer's claim.[30] The American Bar Association urges attorneys discussing a litigation financing contract with a litigation financier to safeguard against waiving privilege, warning that infringing upon rights that clients would otherwise have, resulting from the presence of alternative litigation finance, requires the informed consent of the client after full, candid disclosure of all associated risks and benefits.[31]

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[25] Covington Alert, *DOJ Officials Signal New Trends in Enforcement and Interpretation of the Foreign Agents Registration Act*, Dec. 7, 2023, https://www.cov.com/en/news-and-insights/insights/2023/12/doj-officials-signal-new-trends-in-enforcement-and-interpretation-of-the-foreign-agents-registration-act.

[26] Press Release, Marco Rubio, U.S. Senator for Florida, *Rubio, Scott Push for Transparency for Foreign Third Party Litigation Funding in U.S. Courts,* Nov. 3, 2023, https://www.rubio.senate.gov/rubio-scott-push-for-transparency-for-foreign-third-party-litigation-funding-in-u-s-courts/.

[27] Lesley Stahl, CBS News, *Litigation Funding: A multibillion-dollar industry for investments in lawsuits with little oversight*, 60 MINUTES, Jul. 23, 2023, https://www.cbsnews.com/news/litigation-funding-60-minutes-transcript-2023-07-23/. Founded in 2009, Burford is the world's largest litigation funder, with $5 billion invested in multiple lawsuits. *Id.*

[28] Under the attorney-client privilege, communication between an attorney and his or her client is typically confidential if such persons do not intend to disclose it to a third party. This protects the giving of information to an attorney so that the attorney can give sound and informed legal advice. Section 90.502(1)(c), F.S.; *Upjohn Co. v. U.S.*, 449 U.S. 383, 389 (1981).

[29] Under the work product doctrine, documents prepared by or on behalf of a party in anticipation of litigation are not discoverable. *GKK, etc. v. Cruz,* 251 So. 3d 967, 969 fn. 3 (Fla. 3d DCA 2018). Work product is almost absolutely protected under Florida common law if it contains mental impressions, conclusions, opinions and legal theories about litigation. *State v. Rabin,* 495 So. 2d 257, 262 (Fla. 3d DCA 1986).

[30] ARC, *What is Consumer Legal Funding?*, http://arclegalfunding.org/consumer-legal-funding/ (last visited Jan. 12, 2024).

[31] American Bar Association, *Commission on Ethics 20/20, Informational Report to the House of Delegates,* available at https://web-stage.law.columbia.edu/sites/default/files/microsites/clwa/CIAA/keynote_third_party_funding.pdf (last visited Jan. 12, 2024).

Litigation Financing Regulations in Florida

Florida regulates consumer loans and financing, usury,[32] and interest.[33] However, at least one state court has specifically found that litigation financing is not a loan subject to existing law, leaving litigation financing and associated interest charges unregulated in the state.

In *Fausone v. U.S. Claims*,[34] the borrower was struck by a dump truck while riding her bicycle. In order to fund her lawsuits against the owner of the dump truck, in 2001 she entered into a series of litigation financing agreements with the financing company for $30,000, which were secured by her personal injury claims. By 2005, the court noted that she apparently owed the financing company more than $102,007 plus attorneys' fees.[35] The borrower's agreement with the financing company provided that if the proceeds of the claim were less than the money owed, the financing company would be entitled to 100 percent of the proceeds. It also included a repayment schedule with an interest rate well above the rates normally allowed for consumer transactions.[36]

Noting that "[t]here appear to be no laws regulating [litigation financing] agreements in Florida" and "[t]hey are not treated like consumer loans," the court affirmed the judgment on appeal and granted the financing company's motion for attorneys' fees pursuant to the financing agreement.[37] But it also noted that "if The Florida Bar is going to allow lawyers to promote and provide such agreements to their clients, it would seem that the legislature might wish to examine this industry to determine whether Florida's citizens are in need of any statutory protection."[38]

Given the lack of regulation, The Florida Bar[39] generally "discourages the use of [litigation financing] companies," allowing an attorney to inform a client about litigation financing only if the attorney feels it is in the client's best interests.[40]

Litigation Financing Regulations in Other States

Several states have enacted laws addressing consumer third-party litigation financing.[41] These laws may require litigation funders to disclose certain information in their funding agreements,

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[32] "Usury" means loaning money at an exorbitant or illegally high interest rate. States set their own maximum interest rates. Florida declares interest higher than 18 percent per year for loans up to $500,000 and higher than 25 percent for loans over $500,000 usurious unless otherwise allowed by law. Cornell Law School, Legal Information Institute, *Usury*, https://www.law.cornell.edu/wex/usury (last visited Jan. 12, 2024); *see also* s. 687.02(1), F.S. (defining usurious contracts) and s. 687.071(2)-(3), F.S. (criminalizing certain kinds of usury and loan sharking).
Ss. 687.02(1) and 687.071(2) and (3), F.S.

[33] *See generally* chs. 516 (regulating consumer finance) and 687, F.S. (regulating interest, usury, and lending practices).

[34] 915 So. 2d 626 (Fla. 2nd DCA 2005).

[35] *Id.* at 627-28.

[36] *Id.* at 628.

[37] *Id.* at 629.

[38] *Id.* at 630.

[39] The Florida Constitution gives the Florida Supreme Court exclusive and ultimate regulatory authority over persons admitted to practice law in Florida. The Court performs this function through The Florida Bar, an investigative and prosecutorial authority charged with ensuring that all attorneys meet the minimum standards of conduct set out in the Rules Regulating the Florida Bar. *See* FLA. CONST. art V, s. 15.

[40] The Florida Bar, *Ethics Opinion 00-3* (Mar. 15, 2002), https://www.floridabar.org/etopinions/etopinion-00-3/.

[41] *Report to Congressional Requesters*, *supra* note 2, at Appendix 3.

including financial terms such as the amount that must be repaid and the annual percentage rate. States may also require registration or impose reporting requirements. In addition, some states limit the interest rates and fees that litigation funders can charge consumers.[42]

The following chart, published by the U.S. Government Accountability Office, identifies 10 examples of state laws addressing consumer third-party litigation financing:[43]

State	Law	Example of requirements or provisions
Arkansas	Consumer Lawsuit Lending Ark. Code Ann. § 4-57-109	Litigation funders cannot charge consumers annual interest rates greater than 17 percent. Funding contracts must disclose the annual percentage rate applicable to the transaction. Any amount paid to a litigation funder that exceeds the amount provided to the consumer in connection with the dispute must be included as interest.
Maine	Maine Consumer Credit Code Legal Funding Practices Me. Rev. Stat. Ann. tit. 9-A, art. 12	Litigation funders must register with the state. Funding contracts must include the total amount that consumers must repay, in 6-month intervals for 42 months, and the annual percentage fee on advance, compounded semiannually. Litigation funders are prohibited from assessing fees for any period exceeding 42 months from the date of the funding contract. Fees cannot be compounded more frequently than semiannually.
Nebraska	Nonrecourse Civil Litigation Act Neb. Rev. Stat. §§ 25-3301 - 25-3309	Litigation funders must register with the state. Funding contracts must include the total dollar amount to be repaid by the consumer, in 6-month intervals for 36 months, including all fees, and the annual percentage rate of return, calculated as of the last day of each 6-month interval, including frequency of compounding.
Nevada	Consumer Litigation Funding Nev. Rev. Stat. ch. 604C (2021)	Litigation funders must be licensed. The provisions apply to consumer litigation funding transactions that do not exceed $500,000. The litigation funder must require the amount to be paid to be set as a predetermined amount based on intervals of time. The amount may not exceed the funded amount plus charges not to exceed a rate of 40 percent annually. The funding contract must disclose the maximum amount to be assigned by the consumer to the litigation funder and a payment schedule listing all dates and the amount due at the end of each 180-day period from the funding date.
Ohio	Nonrecourse Civil Litigation Advance Contracts Ohio Rev. Code § 1349.55	Funding contracts must include the total dollar amount to be repaid by the consumer, in 6-month intervals for 36 months, including all fees, and the annual percentage rate of return, calculated as of the last day of each 6-month interval, including frequency of compounding.
Oklahoma	Consumer Litigation Funding Agreements Okla. Stat. tit. 14A, art. 3, pt. 8	Litigation funders must obtain a license from the state's Department of Consumer Credit. Funding contracts must include a payment schedule that includes the funded amount and charges, and lists all dates and the amount due at the end of each 180-day period from the funding date until the due date of the maximum amount due to the funder by the consumer to satisfy the amount owed under the agreement.

[42] *Id.*

[43] *Id.* at Appendix 3, Table 3. The chart omits Indiana, which enacted Indiana Code s. 24-12 in 2016. *See* P.L.153-2016, s. 7 (2016). The Indiana law requires financing companies to register with the state, caps interest rates and fees, and protects the attorney-client privilege. *See id.* Indiana also recently added a disclosure provision to the law. Mark Popolizio, Verisk, *Indiana enacts statutory provision regarding Third-Party Litigation Funding (TPLF) disclosure*, Jun. 9, 2023, https://www.verisk.com/insurance/visualize/indiana-enacts-statutory-provision-regarding-third-party-litigation-funding-tplf-disclosure/.

Tennessee	Tennessee Litigation Financing Consumer Protection Act Tenn. Code. Ann. tit. 47, ch. 16	Litigation funders must be registered in the state. Funders cannot charge consumers an annual fee that is more than 10 percent of the original amount of money provided to the consumer. The term of funding transactions is limited to 3 years, and the maximum yearly fees funders can charge consumers (which are separate from the annual fee and include underwriting fees and other charges) are limited to a maximum of $360 per year for each $1,000 of the unpaid principal amount of funds advanced to the consumer.
Vermont	Consumer Litigation Funding Companies Vt. Stat. Ann. tit. 8, ch. 74	Litigation funders must register with the state. Funders must file annual reports, which include the number of contracts entered into, the dollar value of funded amounts to consumers and charges under each contract, the dollar amount and number of litigation funding transactions in which the realization to the funder was as contracted, and the dollar amount and number of transactions in which the realization to the funder was less than contracted. Funding contracts must include the total funded amount provided to the consumer under the contract, an itemization of charges, and the annual percentage rate of return.
West Virginia	Consumer Litigation Financing W. Va. Code. ch. 46A, art. 6N	Litigation funders must register with the state. Funding contracts must disclose the total funded amount provided to the consumer under the contract and the total amount due from the consumer, in 6-month intervals for 42 months, including all fees and charges. Litigation funders may not charge the consumer an annual fee of more than 18 percent of the original amount of money provided to the consumer for the litigation financing transaction and a litigation funder may not assess fees for any period exceeding 42 months from the date of the contract with the consumer. Parties to a civil action must disclose to other parties agreements which provide litigation funders a contingent right to compensation from the proceeds of the action.
Wisconsin	2017 Wisconsin Act 235, § 12 Wis. Stat. § 804.01(2)(bg)	Parties to a civil action must disclose to other parties in the action agreements which provide to any person—other than an attorney permitted to charge a contingent fee representing a party—a contingent right to compensation from the proceeds of the action.[a]

Source: GAO analysis of state laws. | GAO-23-105210

Note: This table reflects the referenced laws as of November 4, 2022 and is not exhaustive. Other states may have enacted laws that address consumer third-party litigation financing.

[a]The related statutory provision does not expressly distinguish between agreements that are consumer or commercial in nature. According to literature we reviewed, Wisconsin is the only state to require litigation funding disclosure in commercial litigation. *See, e.g.*, Elizabeth Korchin, Patrick Dempsey, and Eric Blinderman, "The Third Party Litigation Funding Law Review: USA," (November 22, 2021), accessed July 13, 2022, https://thelawreviews.co.uk/title/the-third-party-litigation-funding-law-review/usa.

Montana recently enacted a law requiring the disclosure of litigation funding agreements in all civil cases before Montana courts. The law also requires litigation funders to register with the Montana secretary of state; makes litigation funders jointly liable for costs; and establishes a 25 percent cap on the amount that a funder may receive or recover from any judgment, award, settlement, verdicts, or other form of monetary relief obtained from the lawsuit.[44]

New York currently regulates litigation financing through administrative action; its Attorney General requires litigation financing agreements to provide certain consumer protections.[45] Since 2017, however, New York has also introduced each session, but has not passed, a bill that would limit interest rates, restrict fee-sharing, require disclosures, set penalties, define how litigation loans would impact attorney-client privilege, and require registration and reporting.[46]

Courts in Colorado, Kentucky, and North Carolina have also deemed litigation financing a loan subject to state usury laws.[47] Uniquely, Pennsylvania courts have invalidated litigation financing agreements under a common law champerty doctrine,[48] and Alabama courts have held that

[44] Noël Fletcher, *Montana Reins in Third-Party Lawsuit Financiers, Transport Topics*, May 15, 2023, https://www.ttnews.com/articles/montana-third-party-lawsuit; *see also* ch. 360, Laws of Montana 2023 (enacting S.B. 269).
[45] *See* Julia H. McLaughlin, *Litigation Funding: Charting a Legal and Ethical Course,* 31 VT. L. REV. 615, 653-55 (2007), available at https://lawreview.vermontlaw.edu/wp-content/uploads/2012/02/mclaughlin.pdf.
[46] Heather R. Abraham & Maura Graham, New York State Bar Association, *New York's Unregulated Litigation Lending Industry*, Oct. 13, 2023, https://nysba.org/new-yorks-unregulated-litigation-lending-industry/.
[47] *Oasis Legal Fin. Grp., LLC v. Coffman,* 361 P. 3d 400, 606-10 (Co. S.Ct. 2015); *Boling v. Prospect Funding Holdings, LLC*, 2017 WL 1193064, *4-*8 (W.D. Ky. 2017); *Odell v. Legal Bucks, LLC*, 192 N.C.App. 298, 312-20 (N.C. Ct. of Appeals 2008).
[48] The champerty doctrine prohibits "the sale of the fruit of legal judgment or settlement, in advance of such judgment or settlement, to an otherwise disinterested party." *See* Paul Bond, *Making Champerty Work: An Invitation to State Action,* 150

litigation financing agreements are a form of gambling, or speculating, in litigation and therefore void as against public policy.[49]

III. Effect of Proposed Changes:

The bill creates the "Litigation Investment Safeguards and Transparency Act," to regulate persons participating in legal proceedings funded by litigation financing.

Short Title and Organization

Section 1 provides a short title for the bill, the "Litigation Investment Safeguards and Transparency Act."

Section 2 of the bill designates ss. 69.011, 69.021, 69.031, 69.041, 69.051, 69.061, 69.071, and 69.081, F.S., as part I of chapter 69, F.S., entitled "General Provisions."

Section 3 of the bill creates part II of chapter 69, F.S., consisting of ss. 69.101, 69.103, 69.105, 69.107, 69.109, and 69.111, F.S., entitled "Litigation Financing."

Definitions

The bill creates s. 69.101, F.S., which defines the following terms for purposes of the Act:
"Foreign person" means a person or an entity that is not:
- A citizen of the U.S.
- An alien lawfully admitted for permanent residence in the U.S.
- An unincorporated association, a majority of members of which are citizens of the U.S. or aliens lawfully admitted for permanent residence in the U.S.
- A corporation that is incorporated in the U.S.

"Foreign principal" means:
- The government or a government official of any country other than the U.S.
- A political subdivision or political party of a country other than the U.S.
- A partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a country other than the U.S., whose shares or other ownership interest is owned by the government or a government official of a country other than the U.S., or owned by a political subdivision or political party of a country other than the U.S.

"Health care practitioner" means any person licensed under the statutes regulating:[50]
- Acupuncture.
- Medical practice.
- Osteopathic medicine.

U. PENN. L. REV. 1297, 1297 (2002), available at https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3271&context=penn_law_review; *WFIC, LLC v. LaBarre*, 148 A.3d 812, 818-19 (Sup. Ct. Pa. 2016).

[49] *Wilson v. Harris*, 688 So. 2d 265, 268-70 (Ala. Civ. App. 1996).

[50] *See* s. 456.001(4), F.S. (listing chs. 457-467, F.S.; parts I, II, III, V, X, XIII, and XIV, ch. 468, F.S.; ch. 478, F.S.; ch. 480, F.S.; parts I, II, and III, ch. 483, F.S.; ch. 484, F.S.; ch. 486, F.S.; and chs. 490-491, F.S.).

- Chiropractic medicine.
- Podiatric medicine.
- Naturopathy.
- Optometry.
- Nursing.
- Pharmacy.
- Dentistry, dental hygiene, and dental laboratories.
- Midwifery.
- Speech-language pathology and audiology.
- Nursing home administration.
- Occupational therapy.
- Respiratory therapy.
- Dietetics and nutrition practice.
- Athletic trainers.
- Orthotics, prosthetics, and pedorthics.
- Electrolysis.
- Massage therapy practice.
- Clinical laboratory personnel.
- Medical physicists.
- Genetic counseling.
- Dispensing of optical devices and hearing aids.
- Physical therapy practice.
- Psychological services.
- Clinical, counseling, and psychotherapy services.

"Litigation financier" means a person engaged in the business of providing litigation financing.

"Litigation financing agreement" or "litigation financing" means a transaction in which a litigation financier agrees to provide financing to a person who is a party to, or counsel of record for, a civil action, administrative proceeding, claim, or other legal proceeding, in exchange for a right to receive payment, which right is contingent in any respect on the outcome of such action, claim, or proceeding, or on the outcome of any matter within a portfolio that includes such action, claim, or proceeding, and involves the same counsel or affiliated counsel.

However, the terms do not apply to:

- An agreement wherein funds are provided for or to a party to a civil action, administrative proceeding, claim, or other legal proceeding, for such person's use in paying his or her costs of living or other personal or familial expenses during the pendency of such action, claim, or proceeding, and where such funds are not used to finance any litigation or other legal costs.
- An agreement wherein an attorney consents to provide legal services on a contingency fee basis or to advance his or her client's legal costs, and where such services or costs are provided by the attorney in accordance with the Florida Rules of Professional Conduct.
- An entity with a preexisting contractual obligation to indemnify or defend a party to a civil action, administrative proceeding, claim, or other legal proceeding.

- A health insurer that has paid, or is obligated to pay, any sums for health care for an injured person under the terms of a health insurance plan or agreement.
- The repayment of a financial institution[51] for loans made directly to a party to a civil action, administrative proceeding, claim, or other legal proceeding, or to such party's attorney when repayment of the loan is not contingent upon the outcome of such action, claim, or proceeding, or on the outcome of any matter within a portfolio that includes such action, claim, or proceeding and involves the same counsel or affiliated counsel.
- Funding provided to a nonprofit organization, provided the nonprofit organization uses the funding to seek relief other than compensatory damages in excess of $100,000 or punitive damages, whether as a party or on behalf of a client or member of the organization, and irrespective of whether the nonprofit organization seeks an award of costs or attorney fees in providing pro bono representation.
- Funding provided by a nonprofit organization exempt from federal income tax under s. 501(c)(3) of the U.S. Internal Revenue Code, by grant or otherwise, to support the pursuit of pro bono, no-cost litigation.

"National security interests" means those interests relating to the national defense, foreign intelligence and counterintelligence, international, and domestic security, and foreign relations.

"Proprietary information" means information developed, created, or discovered by a person, or which became known by or was conveyed to the person, which has commercial value in the person's business. The term includes, but is not limited to, domain names, trade secrets, copyrights, ideas, techniques, inventions, regardless of whether patentable, and other information of any type relating to designs, configurations, documentation, recorded data, schematics, circuits, mask works, layouts, source code, object code, master works, master databases, algorithms, flow charts, formulae, works of authorship, mechanisms, research, manufacture, improvements, assembly, installation, intellectual property including patents and patent applications, and information concerning the person's actual or anticipated business, research, or development or received in confidence by or for the person from any other source.

"Sovereign wealth fund" means an investment fund owned or controlled by a foreign principal or an agent thereof.

Litigation Financing Agreements and Representation of Client Interests

The bill creates s. 69.103, F.S., which regulates litigation financing agreements and the representation of client interests.

Specifically, the bill provides that a court may take the existence of a litigation financing agreement into account:

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[51] *See* s. 655.005(1)(i), F.S. (providing that "financial institution" means "a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.").

- In a class action lawsuit brought in the courts of this state, when determining whether a class representative or class counsel would adequately and fairly represent the interests of the class.
- In actions involving a common question of law or fact pending before the court which may be or have been consolidated, when determining whether the lead counsel or any co-lead counsel would adequately and fairly represent the interests of the parties to such actions.

Prohibited Conduct by Litigation Financiers

The bill creates s. 69.105, F.S., which prohibits certain conduct by litigation financiers.

Specifically, the bill provides that a litigation financier may not:

- Direct, or make any decisions with respect to, the course of any civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier has provided financing, or any settlement or other disposition thereof. This prohibition includes, but is not limited to, decisions in appointing or changing counsel, choice or use of expert witnesses, and litigation strategy. All rights to make decisions with respect to the course and settlement or other disposition of the subject civil action, administrative proceeding, claim, or other legal proceeding remain solely with the parties to such action, claim, or proceeding and their counsel of record.
- Contract for or receive, whether directly or indirectly, a larger share of the proceeds of a civil action, administrative proceeding, claim, or other legal proceeding financed by a litigation financing agreement than the share of the proceeds collectively recovered by the plaintiffs to any such action, claim, or proceeding, after the payment of any attorney fees and costs owed in connection to such action, claim, or proceeding.
- Pay or offer to pay a commission, referral fee, or other consideration to any person, including an attorney, law firm, or health care practitioner, for referring a person to the litigation financier.
- Assign or securitize a litigation financing agreement in whole or in part.
- Be assigned rights to or in a civil action, administrative proceeding, claim, or other legal proceeding, for which the litigation financier provided financing, other than the right to receive a share of the proceeds of such action, claim, or proceeding, pursuant to the litigation financing agreement.

Required Disclosures and Discovery Obligations

The bill creates s. 69.107, F.S., which requires certain disclosures and identifies certain discovery obligations in connection with litigation financing.

Disclosures by Attorneys Who Enter into Litigation Financing Agreements

The bill requires an attorney who enters into a litigation financing agreement to disclose its existence, and deliver a copy of the agreement to the client he or she represents in the civil action, administrative proceeding, claim, or other legal proceeding financed by the agreement, within 30 days after being retained as counsel by such client, or within 30 days after entering into the litigation financing agreement, whichever is earlier.

Disclosures by Parties to, or Counsel of Record for, Legal Proceedings

Additionally, except as otherwise stipulated to by the parties to a civil action, administrative proceeding, claim, or other legal proceeding, or as otherwise ordered by a court of competent jurisdiction, a party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding who enters into a litigation financing agreement with respect to such action, claim, or proceeding must, without awaiting a discovery request and within 30 days after commencement of such action, claim, or proceeding, disclose its existence and deliver a copy of the litigation financing agreement to:

- All parties to the civil action, administrative proceeding, claim, or other legal proceeding.
- The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.
- Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

Disclosures by Class Counsel of a Putative Class in Class Action Lawsuits

The bill provides that in addition to complying with the previous two provisions, the class counsel of a putative class in a class action lawsuit for which litigation financing is obtained must disclose to the following persons the existence of any legal, financial, or other relationship between the class counsel and the litigation financier that exists separate and apart from the litigation financing agreement itself within 30 days after commencement of such action, or of the execution of the litigation financing agreement, whichever is earlier:

- All parties to the civil action, administrative proceeding, claim, or other legal proceeding.
- The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.
- Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

The class counsel in a class action or putative class action lawsuit for which litigation financing is obtained must, upon the request of a class member, disclose and deliver a copy of the litigation financing agreement to the class member.

Disclosures by Lead and Co-Lead Counsel in Consolidated Civil Actions

The bill also provides that in addition to complying with the first two provisions above, the lead counsel and co-lead counsel, if any, for civil actions consolidated in the courts of this state must disclose to the following parties the existence of, and deliver a copy of, any litigation financing agreement entered into in connection with any of the consolidated actions:

- All parties to the consolidated civil actions.
- The court, agency, or tribunal in which the civil actions are pending.
- Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil actions.

Disclosures by Parties and Counsel of Record of the Involvement of Foreign Persons, Foreign Principals, or Sovereign Wealth Funds

Additionally, a party to a civil action, administrative proceeding, claim, or other legal proceeding, or such party's counsel of record, must, except as otherwise stipulated to by the parties to such action, claim, or proceeding, or as otherwise ordered by a court of competent jurisdiction, disclose as prescribed in the following provision the name, address, and citizenship or country of incorporation or registration of any foreign person, foreign principal, or sovereign wealth fund that, with respect to the action, claim, or proceeding:

- Obtained or will obtain a right to receive any payment that is contingent in any respect on the outcome of such civil action, administrative proceeding, claim, or other legal proceeding, or on the outcome of any matter within a portfolio that includes such civil action, administrative proceeding, claim, or other legal proceeding and involves the same counsel or affiliated counsel.
- Provided or will provide funds, whether directly or indirectly, which funds have been or will be used to satisfy any term of a litigation financing agreement into which the party or the party's counsel of record has entered to finance such civil action, administrative proceeding, claim, or other legal proceeding.
- Has received or is entitled to receive proprietary information or information affecting national security interests obtained as a result of the financing of such civil action, administrative proceeding, claim, or other legal proceeding by a litigation financing agreement entered into by the party or the party's counsel of record.

The disclosures required in the previous provision must be made to the following persons:

- All parties to the civil action, administrative proceeding, claim, or other legal proceeding.
- The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.
- Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.
- The Department of Financial Services.
- The Office of the Attorney General.

The Existence of Litigation Financing Agreements is Discoverable

The bill provides that the fact of the existence of a litigation financing agreement and the identities of all parties to the agreement are discoverable in any civil action, administrative proceeding, claim, or other legal proceeding financed by such an agreement, unless the court, for good cause shown, determines otherwise.

All Disclosure Obligations are Ongoing

The disclosure obligations in the bill are ongoing obligations. Thus, when a party to a civil action, administrative proceeding, claim, or other legal proceeding, or his or her counsel of record:

- Enters into or amends a litigation financing agreement after the commencement of such action, claim, or proceeding, the party or attorney has 30 days after the date of entering into

or amending the litigation financing agreement to comply with the disclosure obligations established in the bill.
- Obtains information on the involvement of a foreign person, foreign principal, or sovereign wealth fund after the commencement of such action, claim, or proceeding, which involvement would require disclosure under this section, the party or attorney has 30 days after the date of obtaining the information to comply with the disclosure obligations established in the bill.

Redaction

The bill provides that a party, or the party's counsel, who is required to disclose a copy of the litigation financing agreement under certain provisions of the bill[52] may redact from the agreement the dollar amounts being financed.

Another party may petition the circuit court in the county where the civil action, administrative proceeding, claim, or other legal proceeding is pending to:
- Dispute the extent of such redactions if information other than the dollar amounts being financed has been improperly redacted from the agreement; or
- Show cause that the dollar amounts being financed should be disclosed.

In the case of such a petition, the party or counsel disclosing the agreement must submit an unredacted copy of the agreement to the court for inspection in camera. If the court finds that information other than the dollar amounts being financed has been improperly redacted from the agreement or that cause has been shown to disclose the dollar amounts being financed, the court must order that such information be disclosed to all parties to whom the agreement must be disclosed.

Indemnification by Litigation Financiers

The bill creates s. 69.109, F.S., which requires certain indemnifications by litigation financiers.

Specifically, in any litigation financing agreement, the litigation financier must agree to indemnify the plaintiffs to the civil action, administrative proceeding, claim, or other legal proceeding funded in the agreement, and such plaintiffs' counsel of record, against any adverse costs, attorney fees, damages, or sanctions that may be ordered or awarded against such persons in such action, claim, or proceeding. However, indemnification is not required for those adverse costs, attorney fees, damages, or sanctions that the litigation financier can show resulted from the intentional misconduct of such plaintiffs or plaintiffs' counsel of record.

Violations and Enforcement

The bill creates s. 69.111, F.S., which regulates violations and provides for enforcement.

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[52] Specifically, proposed s. 69.107(2) or (5), F.S. Subsection (2) requires disclosure of a copy of the litigation financing agreement by "a party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding who enters into a litigation financing agreement with respect to" the legal proceeding. Subsection (5) requires disclosure of a copy of the litigation financing agreement by "the lead counsel and co-lead counsel, if any, for civil actions consolidated in the courts of this state[.]"

Specifically, the bill provides that:

- A litigation financing agreement executed in violation of this part is void and unenforceable.
- A violation of s. 69.105 or s. 69.109 is a deceptive and unfair trade practice actionable under the Florida Deceptive and Unfair Trade Practices Act.[53]
- A court, agency, or tribunal of competent jurisdiction may impose fines or any other sanction it deems appropriate upon any person who violates s. 69.107.

Severability

Section 4 of the bill provides that if any provision of the bill or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the bill which can be given effect without the invalid provision or application, and to this end the provisions of the bill are severable.

Applicability

Section 5 of the bill provides for applicability.

Specifically, the disclosure requirements in s. 69.107, F.S., as created by the bill apply to any civil action, administrative proceeding, claim, or other legal proceeding pending or commenced on or after July 1, 2024. Any party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding pending on July 1, 2024, who would have been required to make a disclosure under s. 69.107, F.S., had it been in effect at the time the relevant action occurred must make the disclosure under that section within 30 days after July 1, 2024. Failure to do so is sanctionable as provided in s. 69.111, F.S.

Section 6 of the bill provides that except as otherwise provided in the bill, this Act applies to litigation financing agreements entered into on or after July 1, 2024.

Effective Date

Section 7 of the bill provides that it takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[53] Chapter 501, part II, F.S. *See* s. 501.201, F.S. (providing the short title).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will positively impact consumers entering into litigation financing agreements by effectively capping the recovery of litigation financiers (*i.e.* by prohibiting litigation financiers from contracting for a larger share of the proceeds of a legal proceeding than collectively recovered by the plaintiffs). Conversely, the bill may reduce the potential of consumers to obtain funding that might be necessary to bring a claim.

The bill will negatively impact litigation financiers by requiring them to indemnify plaintiffs and their counsel for any adverse costs, attorney fees, damages, or sanctions awarded against the plaintiffs; prohibiting them from engaging in business development by paying third parties commissions or referral fees; prohibiting them from assigning or securitizing litigation financing agreements; and prohibiting them from being assigned any rights other than the right to receive a share of the proceeds from successful litigation pursuant to the litigation financing agreement.

A litigation financier who willfully uses a deceptive or unfair trade act or practice may face a civil penalty of up to $10,000 per violation, or $15,000 per violation if such victim was a senior citizen, disabled person, or military service member.

C. Government Sector Impact:

The bill authorizes courts, agencies, or tribunals of competent jurisdiction to impose fines or other sanctions they deem appropriate upon any person who violates the disclosure and discovery provisions of the Act. Accordingly, the bill will, to some unknown extent, result in increased revenues to these courts, agencies, and tribunals.

Under the bill, the Department of Legal Affairs or the Office of the State Attorney may also collect civil penalties from litigation financiers who violate the Florida Deceptive and Unfair Trade Practices Act. Litigation financiers who willfully use deceptive or unfair trade practices may face civil penalties of up to $10,000 per violation, or $15,000 per violation if the victim is a senior citizen, disabled person, or military service member. Accordingly, the bill is likely to result in increased revenues to the state.

The bill may also cause an indeterminate, but likely insignificant, workload increase on the Department of Legal Affairs and Office of the State Attorney for each judicial circuit, either of which could be responsible for prosecuting such violations. However, these costs will likely be absorbed by each entity's operating budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 69.011, 69.021, 69.031, 69.041, 69.051, 69.061, 69.071, and 69.081.

This bill creates the following sections of the Florida Statutes: 69.101, 69.103, 69.105, 69.107, 69.109, and 69.111.

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 Fiscal Policy on February 7, 2024:

The amendment:

- Clarifies, in connection with the nonprofit organization exemption from litigation financing requirements, that nonprofits may seek:
  - Relief other than compensatory damages in excess of $100,000 or punitive damages.
  - Relief as parties themselves, in addition to seeking relief on behalf of clients or members of the organization.
  - An award of costs or attorney fees in providing pro bono representation.
- Provides that funding provided by a nonprofit organization exempt from federal income tax, by grant or otherwise, to support the pursuit of pro bono, no-cost litigation, does not qualify as litigation financing.
- Provides, in connection with certain disclosure requirements in the bill, that parties to legal proceedings or their counsel may redact the dollar amounts being financed from the copies of the litigation financing agreements that they disclose.
- Allows other parties to petition the court to dispute the extent of redactions if more than just dollar amounts have been redacted, or to show cause that the dollar amounts being financed should be disclosed; if, after an in camera inspection, the court agrees with the petitioner, the court must then order disclosure to all parties.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2024	.	
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The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete lines 104 - 302
and insert:

(f) Funding provided to a nonprofit organization, provided the nonprofit organization uses the funding to seek only injunctive or equitable relief, whether as a party or on behalf of a client or member of the organization, and irrespective of whether the nonprofit organization seeks an award of costs or attorney fees in providing pro bono representation.

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(g) Funding provided by a nonprofit organization exempt from federal income tax under s. 501(c)(3) of the United States Internal Revenue Code, by grant or otherwise, to support the pursuit of pro bono, no-cost litigation.

(6) "National security interests" means those interests relating to the national defense, foreign intelligence and counterintelligence, international, and domestic security, and foreign relations.

(7) "Proprietary information" means information developed, created, or discovered by a person, or which became known by or was conveyed to the person, which has commercial value in the person's business. The term includes, but is not limited to, domain names, trade secrets, copyrights, ideas, techniques, inventions, regardless of whether patentable, and other information of any type relating to designs, configurations, documentation, recorded data, schematics, circuits, mask works, layouts, source code, object code, master works, master databases, algorithms, flow charts, formulae, works of authorship, mechanisms, research, manufacture, improvements, assembly, installation, intellectual property including patents and patent applications, and information concerning the person's actual or anticipated business, research, or development or received in confidence by or for the person from any other source.

(8) "Sovereign wealth fund" means an investment fund owned or controlled by a foreign principal or an agent thereof.

69.103 Litigation financing agreement; representation of client interests.—A court may take the existence of a litigation financing agreement into account:

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(1) In a class action lawsuit brought in the courts of this state when determining whether a class representative or class counsel would adequately and fairly represent the interests of the class.

(2) In actions involving a common question of law or fact pending before the court which may be or have been consolidated when determining whether the lead counsel or any co-lead counsel would adequately and fairly represent the interests of the parties to such actions.

69.105 Prohibited conduct.—A litigation financier may not:

(1) Direct, or make any decisions with respect to, the course of any civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier has provided financing, or any settlement or other disposition thereof. This prohibition includes, but is not limited to, decisions in appointing or changing counsel, choice or use of expert witnesses, and litigation strategy. All rights to make decisions with respect to the course and settlement or other disposition of the subject civil action, administrative proceeding, claim, or other legal proceeding remain solely with the parties to such action, claim, or proceeding and their counsel of record.

(2) Contract for or receive, whether directly or indirectly, a larger share of the proceeds of a civil action, administrative proceeding, claim, or other legal proceeding financed by a litigation financing agreement than the share of the proceeds collectively recovered by the plaintiffs to any such action, claim, or proceeding after the payment of any attorney fees and costs owed in connection to such action,

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claim, or proceeding.

(3) Pay or offer to pay a commission, referral fee, or other consideration to any person, including an attorney, law firm, or health care practitioner, for referring a person to the litigation financier.

(4) Assign or securitize a litigation financing agreement in whole or in part.

(5) Be assigned rights to or in a civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier provided financing, other than the right to receive a share of the proceeds of such action, claim, or proceeding pursuant to the litigation financing agreement.

69.107 Required disclosures; discovery obligations.—

(1) An attorney who enters into a litigation financing agreement must disclose the existence and deliver a copy of the agreement to the client he or she represents in the civil action, administrative proceeding, claim, or other legal proceeding financed by the agreement within 30 days after being retained as counsel by such client, or within 30 days after entering into the litigation financing agreement, whichever is earlier.

(2) Except as otherwise stipulated to by the parties to a civil action, administrative proceeding, claim, or other legal proceeding, or as otherwise ordered by a court of competent jurisdiction, a party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding who enters into a litigation financing agreement with respect to such action, claim, or proceeding must, without

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awaiting a discovery request and within 30 days after commencement of such action, claim, or proceeding, disclose the existence and deliver to the following parties a copy of the litigation financing agreement:

(a) All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

(b) The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

(3) In addition to complying with subsections (1) and (2), the class counsel of a putative class in a class action lawsuit for which litigation financing is obtained must disclose to the following persons the existence of any legal, financial, or other relationship between the class counsel and the litigation financier that exists separate and apart from the litigation financing agreement itself within 30 days after commencement of such action or of the execution of the litigation financing agreement, whichever is earlier:

(a) All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

(b) The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

(4) The class counsel in a class action or putative class action lawsuit for which litigation financing is obtained must, upon the request of a class member, disclose and deliver a copy of the litigation financing agreement to the class member.

(5) In addition to complying with subsections (1) and (2), the lead counsel and co-lead counsel, if any, for civil actions consolidated in the courts of this state must disclose to the following parties the existence of and deliver a copy of any litigation financing agreement entered into in connection with any of the consolidated actions:

(a) All parties to the consolidated civil actions.

(b) The court, agency, or tribunal in which the civil actions are pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil actions.

(6)(a) A party to a civil action, administrative proceeding, claim, or other legal proceeding, or such party’s counsel of record, must, except as otherwise stipulated to by the parties to such action, claim, or proceeding, or as otherwise ordered by a court of competent jurisdiction, disclose as prescribed in paragraph (b) the name, address, and citizenship or country of incorporation or registration of any foreign person, foreign principal, or sovereign wealth fund that, with respect to the action, claim, or proceeding:

1. Obtained or will obtain a right to receive any payment that is contingent in any respect on the outcome of such civil

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action, administrative proceeding, claim, or other legal proceeding, or on the outcome of any matter within a portfolio that includes such civil action, administrative proceeding, claim, or other legal proceeding and involves the same counsel or affiliated counsel;

2. Provided or will provide funds, whether directly or indirectly, which funds have been or will be used to satisfy any term of a litigation financing agreement into which the party or the party's counsel of record has entered to finance such civil action, administrative proceeding, claim, or other legal proceeding; or

3. Has received or is entitled to receive proprietary information or information affecting national security interests obtained as a result of the financing of such civil action, administrative proceeding, claim, or other legal proceeding by a litigation financing agreement entered into by the party or the party's counsel of record.

(b) The disclosures required in paragraph (a) must be made to the following persons:

1. All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

2. The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

3. Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

4. The Department of Financial Services.

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5. The Office of the Attorney General.

(7) The fact of the existence of a litigation financing agreement and the identities of all parties to the agreement are discoverable in any civil action, administrative proceeding, claim, or other legal proceeding financed by such an agreement, unless the court, for good cause shown, determines otherwise.

(8) The disclosure obligations in this section are ongoing obligations. Thus, when a party to a civil action, administrative proceeding, claim, or other legal proceeding, or his or her counsel of record:

(a) Enters into or amends a litigation financing agreement after the commencement of such action, claim, or proceeding, the party or attorney has 30 days after the date of entering into or amending the litigation financing agreement to comply with the disclosure obligations established herein.

(b) Obtains information on the involvement of a foreign person, foreign principal, or sovereign wealth fund after the commencement of such action, claim, or proceeding, which involvement would require disclosure under this section, the party or attorney has 30 days after the date of obtaining the information to comply with the disclosure obligations established herein.

(9)(a) A party, or the party’s counsel, who is required to disclose a copy of the litigation financing agreement under subsection (2) or subsection (5) may redact from the agreement the dollar amounts being financed. Another party may petition the circuit court in the county where the civil action, administrative proceeding, claim, or other legal proceeding is pending to:

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1. Dispute the extent of such redactions if information other than the dollar amounts being financed has been improperly redacted from the agreement; or

2. Show cause that the dollar amounts being financed should be disclosed.

(b) In the case of such petition, the party or counsel disclosing the agreement shall submit an unredacted copy of the agreement to the court for inspection in camera. If the court finds that information other than the dollar amounts being financed has been improperly redacted from the agreement or that cause has been shown to disclose the dollar amounts being financed, the court must order that such information be disclosed to all parties to whom the agreement must be disclosed.

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

And the title is amended as follows:

Between lines 16 and 17

insert:

authorizing certain parties, or their counsel, who are required to disclose a copy of the litigation financing to redact the dollar amounts being financed; providing a method for another party to petition the court to dispute such redactions; requiring the party disclosing the agreement to submit an unredacted copy of the agreement to the court for inspection in camera to make certain determinations;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment

Delete lines 104 - 302
and insert:

(f) Funding provided to a nonprofit organization, provided the nonprofit organization uses the funding to seek relief other than compensatory damages in excess of $100,000 or punitive damages, whether as a party or on behalf of a client or member of the organization, and irrespective of whether the nonprofit organization seeks an award of costs or attorney fees in

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providing pro bono representation.

(g) Funding provided by a nonprofit organization exempt from federal income tax under s. 501(c)(3) of the United States Internal Revenue Code, by grant or otherwise, to support the pursuit of litigation that does not seek compensatory damages in excess of $100,000 or punitive damages.

(6) "National security interests" means those interests relating to the national defense, foreign intelligence and counterintelligence, international, and domestic security, and foreign relations.

(7) "Proprietary information" means information developed, created, or discovered by a person, or which became known by or was conveyed to the person, which has commercial value in the person's business. The term includes, but is not limited to, domain names, trade secrets, copyrights, ideas, techniques, inventions, regardless of whether patentable, and other information of any type relating to designs, configurations, documentation, recorded data, schematics, circuits, mask works, layouts, source code, object code, master works, master databases, algorithms, flow charts, formulae, works of authorship, mechanisms, research, manufacture, improvements, assembly, installation, intellectual property including patents and patent applications, and information concerning the person's actual or anticipated business, research, or development or received in confidence by or for the person from any other source.

(8) "Sovereign wealth fund" means an investment fund owned or controlled by a foreign principal or an agent thereof.

69.103 Litigation financing agreement; representation of

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client interests.—A court may take the existence of a litigation financing agreement into account:

(1) In a class action lawsuit brought in the courts of this state when determining whether a class representative or class counsel would adequately and fairly represent the interests of the class.

(2) In actions involving a common question of law or fact pending before the court which may be or have been consolidated when determining whether the lead counsel or any co-lead counsel would adequately and fairly represent the interests of the parties to such actions.

69.105 Prohibited conduct.—A litigation financier may not:

(1) Direct, or make any decisions with respect to, the course of any civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier has provided financing, or any settlement or other disposition thereof. This prohibition includes, but is not limited to, decisions in appointing or changing counsel, choice or use of expert witnesses, and litigation strategy. All rights to make decisions with respect to the course and settlement or other disposition of the subject civil action, administrative proceeding, claim, or other legal proceeding remain solely with the parties to such action, claim, or proceeding and their counsel of record.

(2) Contract for or receive, whether directly or indirectly, a larger share of the proceeds of a civil action, administrative proceeding, claim, or other legal proceeding financed by a litigation financing agreement than the share of the proceeds collectively recovered by the plaintiffs to any

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such action, claim, or proceeding after the payment of any attorney fees and costs owed in connection to such action, claim, or proceeding.

(3) Pay or offer to pay a commission, referral fee, or other consideration to any person, including an attorney, law firm, or health care practitioner, for referring a person to the litigation financier.

(4) Assign or securitize a litigation financing agreement in whole or in part.

(5) Be assigned rights to or in a civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier provided financing, other than the right to receive a share of the proceeds of such action, claim, or proceeding pursuant to the litigation financing agreement.

69.107 Required disclosures; discovery obligations.—

(1) An attorney who enters into a litigation financing agreement must disclose the existence and deliver a copy of the agreement to the client he or she represents in the civil action, administrative proceeding, claim, or other legal proceeding financed by the agreement within 30 days after being retained as counsel by such client, or within 30 days after entering into the litigation financing agreement, whichever is earlier.

(2) Except as otherwise stipulated to by the parties to a civil action, administrative proceeding, claim, or other legal proceeding, or as otherwise ordered by a court of competent jurisdiction, a party to or counsel of record for a civil action, administrative proceeding, claim, or other legal

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proceeding who enters into a litigation financing agreement with respect to such action, claim, or proceeding must, without awaiting a discovery request and within 30 days after commencement of such action, claim, or proceeding, disclose the existence and deliver to the following parties a copy of the litigation financing agreement:

(a) All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

(b) The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

(3) In addition to complying with subsections (1) and (2), the class counsel of a putative class in a class action lawsuit for which litigation financing is obtained must disclose to the following persons the existence of any legal, financial, or other relationship between the class counsel and the litigation financier that exists separate and apart from the litigation financing agreement itself within 30 days after commencement of such action or of the execution of the litigation financing agreement, whichever is earlier:

(a) All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

(b) The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

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(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

(4) The class counsel in a class action or putative class action lawsuit for which litigation financing is obtained must, upon the request of a class member, disclose and deliver a copy of the litigation financing agreement to the class member.

(5) In addition to complying with subsections (1) and (2), the lead counsel and co-lead counsel, if any, for civil actions consolidated in the courts of this state must disclose to the following parties the existence of and deliver a copy of any litigation financing agreement entered into in connection with any of the consolidated actions:

(a) All parties to the consolidated civil actions.

(b) The court, agency, or tribunal in which the civil actions are pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil actions.

(6)(a) A party to a civil action, administrative proceeding, claim, or other legal proceeding, or such party’s counsel of record, must, except as otherwise stipulated to by the parties to such action, claim, or proceeding, or as otherwise ordered by a court of competent jurisdiction, disclose as prescribed in paragraph (b) the name, address, and citizenship or country of incorporation or registration of any foreign person, foreign principal, or sovereign wealth fund that, with respect to the action, claim, or proceeding:

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1. Obtained or will obtain a right to receive any payment that is contingent in any respect on the outcome of such civil action, administrative proceeding, claim, or other legal proceeding, or on the outcome of any matter within a portfolio that includes such civil action, administrative proceeding, claim, or other legal proceeding and involves the same counsel or affiliated counsel;

2. Provided or will provide funds, whether directly or indirectly, which funds have been or will be used to satisfy any term of a litigation financing agreement into which the party or the party’s counsel of record has entered to finance such civil action, administrative proceeding, claim, or other legal proceeding; or

3. Has received or is entitled to receive proprietary information or information affecting national security interests obtained as a result of the financing of such civil action, administrative proceeding, claim, or other legal proceeding by a litigation financing agreement entered into by the party or the party’s counsel of record.

(b) The disclosures required in paragraph (a) must be made to the following persons:

1. All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

2. The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

3. Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or

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other legal proceeding.

4. The Department of Financial Services.

5. The Office of the Attorney General.

(7) The fact of the existence of a litigation financing agreement and the identities of all parties to the agreement are discoverable in any civil action, administrative proceeding, claim, or other legal proceeding financed by such an agreement, unless the court, for good cause shown, determines otherwise.

(8) The disclosure obligations in this section are ongoing obligations. Thus, when a party to a civil action, administrative proceeding, claim, or other legal proceeding, or his or her counsel of record:

(a) Enters into or amends a litigation financing agreement after the commencement of such action, claim, or proceeding, the party or attorney has 30 days after the date of entering into or amending the litigation financing agreement to comply with the disclosure obligations established herein.

(b) Obtains information on the involvement of a foreign person, foreign principal, or sovereign wealth fund after the commencement of such action, claim, or proceeding, which involvement would require disclosure under this section, the party or attorney has 30 days after the date of obtaining the information to comply with the disclosure obligations established herein.

(9)(a) A party, or the party's counsel, who is required to disclose a copy of the litigation financing agreement under subsection (2) or subsection (5) may redact from the agreement the dollar amounts being financed. Another party may petition the circuit court in the county where the civil action,

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administrative proceeding, claim, or other legal proceeding is pending to:

1. Dispute the extent of such redactions if information other than the dollar amounts being financed has been improperly redacted from the agreement; or

2. Show cause that the dollar amounts being financed should be disclosed.

(b) In the case of such petition, the party or counsel disclosing the agreement shall submit an unredacted copy of the agreement to the court for inspection in camera. If the court finds that information other than the dollar amounts being financed has been improperly redacted from the agreement or that cause has been shown to disclose the dollar amounts being financed, the court must order that such information be disclosed to all parties to whom the agreement must be disclosed.

By Senator Collins

A bill to be entitled

An act relating to litigation financing; providing a short title; designating ss. 69.011-69.081, F.S., as part I of ch. 69, F.S.; creating part II of ch. 69, F.S., relating to litigation financing; creating s. 69.101, F.S.; providing definitions; creating s. 69.103, F.S.; requiring a court’s consideration of potential conflicts of interest which may arise from the existence of a litigation financing agreement in specified circumstances; creating s. 69.105, F.S.; prohibiting specified acts by litigation financiers; creating s. 69.107, F.S.; requiring certain disclosures related to litigation financing agreements and the involvement of foreign persons, foreign principals, or sovereign wealth funds; providing for discovery related to litigation financing agreements; creating s. 69.109, F.S.; requiring the indemnification of specified fees, costs, and sanctions by a litigation financier in specified circumstances; creating s. 69.111, F.S.; providing that a litigation financing agreement is void in specified circumstances; providing for enforcement of specified violations under the Florida Deceptive and Unfair Trade Practices Act; providing severability; providing applicability; providing an effective date.

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

Section 1. This act may be cited as the “Litigation

Investment Safeguards and Transparency Act.”

Section 2. Sections 69.011, 69.021, 69.031, 69.041, 69.051, 69.061, 69.071, and 69.081, Florida Statutes, are designated as part I of chapter 69, Florida Statutes, and entitled “General Provisions.”

Section 3. Part II of chapter 69, Florida Statutes, consisting of ss. 69.101, 69.103, 69.105, 69.107, 69.109, and 69.111, Florida Statutes, is created to read:

PART II

LITIGATION FINANCING

69.101 Definitions.—As used in this part, the term:

(1) “Foreign person” means a person or an entity that is not:

(a) A citizen of the United States;

(b) An alien lawfully admitted for permanent residence in the United States;

(c) An unincorporated association, a majority of members of which are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

(d) A corporation that is incorporated in the United States.

(2) “Foreign principal” means:

(a) The government or a government official of any country other than the United States;

(b) A political subdivision or political party of a country other than the United States; or

(c) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a country other than the United States whose shares or other ownership interest is owned by the government or a government official of a country other than the United States or owned by a political subdivision or political party of a country other than the United States.

(3) "Health care practitioner" has the same meaning as provided in s. 456.001.

(4) "Litigation financier" means a person engaged in the business of providing litigation financing.

(5) "Litigation financing agreement" or "litigation financing" means a transaction in which a litigation financier agrees to provide financing to a person who is a party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding in exchange for a right to receive payment, which right is contingent in any respect on the outcome of such action, claim, or proceeding or on the outcome of any matter within a portfolio that includes such action, claim, or proceeding and involves the same counsel or affiliated counsel. However, the terms do not apply to:

(a) An agreement wherein funds are provided for or to a party to a civil action, administrative proceeding, claim, or other legal proceeding for such person's use in paying his or her costs of living or other personal or familial expenses during the pendency of such action, claim, or proceeding and where such funds are not used to finance any litigation or other legal costs.

(b) An agreement wherein an attorney consents to provide legal services on a contingency fee basis or to advance his or her client's legal costs, and where such services or costs are

provided by the attorney in accordance with the Florida Rules of Professional Conduct.

(c) An entity with a preexisting contractual obligation to indemnify or defend a party to a civil action, administrative proceeding, claim, or other legal proceeding.

(d) A health insurer that has paid, or is obligated to pay, any sums for health care for an injured person under the terms of a health insurance plan or agreement.

(e) The repayment of a financial institution, as defined in s. 655.005, for loans made directly to a party to a civil action, administrative proceeding, claim, or other legal proceeding or such party's attorney when repayment of the loan is not contingent upon the outcome of such action, claim, or proceeding or on the outcome of any matter within a portfolio that includes such action, claim, or proceeding and involves the same counsel or affiliated counsel.

(f) Funding provided to a nonprofit legal organization funded by private donors that represents clients on a pro bono, no-cost basis, if the nonprofit legal organization seeks only injunctive relief on behalf of its clients. This part does not affect the award of costs or attorney fees to a nonprofit legal organization in the pro bono, no-cost pursuit of injunctive relief.

(6) "National security interests" means those interests relating to the national defense, foreign intelligence and counterintelligence, international, and domestic security, and foreign relations.

(7) "Proprietary information" means information developed, created, or discovered by a person, or which became known by or

was conveyed to the person, which has commercial value in the person’s business. The term includes, but is not limited to, domain names, trade secrets, copyrights, ideas, techniques, inventions, regardless of whether patentable, and other information of any type relating to designs, configurations, documentation, recorded data, schematics, circuits, mask works, layouts, source code, object code, master works, master databases, algorithms, flow charts, formulae, works of authorship, mechanisms, research, manufacture, improvements, assembly, installation, intellectual property including patents and patent applications, and information concerning the person’s actual or anticipated business, research, or development or received in confidence by or for the person from any other source.

(8) “Sovereign wealth fund” means an investment fund owned or controlled by a foreign principal or an agent thereof.

69.103 Litigation financing agreement; representation of client interests.—A court may take the existence of a litigation financing agreement into account:

(1) In a class action lawsuit brought in the courts of this state when determining whether a class representative or class counsel would adequately and fairly represent the interests of the class.

(2) In actions involving a common question of law or fact pending before the court which may be or have been consolidated when determining whether the lead counsel or any co-lead counsel would adequately and fairly represent the interests of the parties to such actions.

69.105 Prohibited conduct.—A litigation financier may not:

(1) Direct, or make any decisions with respect to, the course of any civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier has provided financing, or any settlement or other disposition thereof. This prohibition includes, but is not limited to, decisions in appointing or changing counsel, choice or use of expert witnesses, and litigation strategy. All rights to make decisions with respect to the course and settlement or other disposition of the subject civil action, administrative proceeding, claim, or other legal proceeding remain solely with the parties to such action, claim, or proceeding and their counsel of record.

(2) Contract for or receive, whether directly or indirectly, a larger share of the proceeds of a civil action, administrative proceeding, claim, or other legal proceeding financed by a litigation financing agreement than the share of the proceeds collectively recovered by the plaintiffs to any such action, claim, or proceeding after the payment of any attorney fees and costs owed in connection to such action, claim, or proceeding.

(3) Pay or offer to pay a commission, referral fee, or other consideration to any person, including an attorney, law firm, or health care practitioner, for referring a person to the litigation financier.

(4) Assign or securitize a litigation financing agreement in whole or in part.

(5) Be assigned rights to or in a civil action, administrative proceeding, claim, or other legal proceeding for which the litigation financier provided financing, other than

the right to receive a share of the proceeds of such action, claim, or proceeding pursuant to the litigation financing agreement.

69.107 Required disclosures; discovery obligations.—

(1) An attorney who enters into a litigation financing agreement must disclose the existence and deliver a copy of the agreement to the client he or she represents in the civil action, administrative proceeding, claim, or other legal proceeding financed by the agreement within 30 days after being retained as counsel by such client, or within 30 days after entering into the litigation financing agreement, whichever is earlier.

(2) Except as otherwise stipulated to by the parties to a civil action, administrative proceeding, claim, or other legal proceeding, or as otherwise ordered by a court of competent jurisdiction, a party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding who enters into a litigation financing agreement with respect to such action, claim, or proceeding must, without awaiting a discovery request and within 30 days after commencement of such action, claim, or proceeding, disclose the existence and deliver to the following parties a copy of the litigation financing agreement:

(a) All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

(b) The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

(c) Any known person, including an insurer, with a

preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

(3) In addition to complying with subsections (1) and (2), the class counsel of a putative class in a class action lawsuit for which litigation financing is obtained must disclose to the following persons the existence of any legal, financial, or other relationship between the class counsel and the litigation financier that exists separate and apart from the litigation financing agreement itself within 30 days after commencement of such action or of the execution of the litigation financing agreement, whichever is earlier:

(a) All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

(b) The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

(4) The class counsel in a class action or putative class action lawsuit for which litigation financing is obtained must, upon the request of a class member, disclose and deliver a copy of the litigation financing agreement to the class member.

(5) In addition to complying with subsections (1) and (2), the lead counsel and co-lead counsel, if any, for civil actions consolidated in the courts of this state must disclose to the following parties the existence of and deliver a copy of any

litigation financing agreement entered into in connection with any of the consolidated actions:

(a) All parties to the consolidated civil actions.

(b) The court, agency, or tribunal in which the civil actions are pending.

(c) Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil actions.

(6)(a) A party to a civil action, administrative proceeding, claim, or other legal proceeding, or such party's counsel of record, must, except as otherwise stipulated to by the parties to such action, claim, or proceeding, or as otherwise ordered by a court of competent jurisdiction, disclose as prescribed in paragraph (b) the name, address, and citizenship or country of incorporation or registration of any foreign person, foreign principal, or sovereign wealth fund that, with respect to the action, claim, or proceeding:

1. Obtained or will obtain a right to receive any payment that is contingent in any respect on the outcome of such civil action, administrative proceeding, claim, or other legal proceeding, or on the outcome of any matter within a portfolio that includes such civil action, administrative proceeding, claim, or other legal proceeding and involves the same counsel or affiliated counsel;

2. Provided or will provide funds, whether directly or indirectly, which funds have been or will be used to satisfy any term of a litigation financing agreement into which the party or the party's counsel of record has entered to finance such civil action, administrative proceeding, claim, or other legal

proceeding; or

3. Has received or is entitled to receive proprietary information or information affecting national security interests obtained as a result of the financing of such civil action, administrative proceeding, claim, or other legal proceeding by a litigation financing agreement entered into by the party or the party's counsel of record.

(b) The disclosures required in paragraph (a) must be made to the following persons:

1. All parties to the civil action, administrative proceeding, claim, or other legal proceeding.

2. The court, agency, or tribunal in which the civil action, administrative proceeding, claim, or other legal proceeding is pending.

3. Any known person, including an insurer, with a preexisting contractual obligation to indemnify or defend a party to the civil action, administrative proceeding, claim, or other legal proceeding.

4. The Department of Financial Services.

5. The Office of the Attorney General.

(7) The fact of the existence of a litigation financing agreement and the identities of all parties to the agreement are discoverable in any civil action, administrative proceeding, claim, or other legal proceeding financed by such an agreement, unless the court, for good cause shown, determines otherwise.

(8) The disclosure obligations in this section are ongoing obligations. Thus, when a party to a civil action, administrative proceeding, claim, or other legal proceeding, or his or her counsel of record:

(a) Enters into or amends a litigation financing agreement after the commencement of such action, claim, or proceeding, the party or attorney has 30 days after the date of entering into or amending the litigation financing agreement to comply with the disclosure obligations established herein.

(b) Obtains information on the involvement of a foreign person, foreign principal, or sovereign wealth fund after the commencement of such action, claim, or proceeding, which involvement would require disclosure under this section, the party or attorney has 30 days after the date of obtaining the information to comply with the disclosure obligations established herein.

69.109 Indemnification by litigation financiers.—In any litigation financing agreement, the litigation financier must agree to indemnify the plaintiffs to the civil action, administrative proceeding, claim, or other legal proceeding funded in the agreement and such plaintiffs' counsel of record against any adverse costs, attorney fees, damages, or sanctions that may be ordered or awarded against such persons in such action, claim, or proceeding. However, indemnification is not required for those adverse costs, attorney fees, damages, or sanctions that the litigation financier can show resulted from the intentional misconduct of such plaintiffs or plaintiffs' counsel of record.

69.111 Violations; enforcement.—

(1) A litigation financing agreement executed in violation of this part is void and unenforceable.

(2) A violation of s. 69.105 or s. 69.109 is a deceptive and unfair trade practice actionable under part II of chapter

501.

(3) A court, agency, or tribunal of competent jurisdiction may impose fines or any other sanction it deems appropriate upon any person who violates s. 69.107.

Section 4. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 5. The disclosure requirements in s. 69.107, Florida Statutes, as created by this act apply to any civil action, administrative proceeding, claim, or other legal proceeding pending or commenced on or after July 1, 2024. Any party to or counsel of record for a civil action, administrative proceeding, claim, or other legal proceeding pending on July 1, 2024, who would have been required to make a disclosure under s. 69.107, Florida Statutes, had it been in effect at the time the relevant action occurred must make the disclosure under that section within 30 days after July 1, 2024. Failure to do so is sanctionable as provided in s. 69.111, Florida Statutes.

Section 6. Except as otherwise provided herein, this act applies to a litigation financing agreement entered into on or after July 1, 2024.

Section 7. This act shall take effect July 1, 2024.

2/7/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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1276
Bill Number or Topic

658474
Amendment Barcode (if applicable)

Name Brandon A. Blake

Phone (386) 316-5734

Address 117 S. Gadsden, Ste. A
Street

Email bab@bdln-law.com

Tallahassee FL 32301
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:
Florida Justice Reform Institute

[ ] 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

02.07.24
Meeting Date

Fiscal Policy
Committee

The Florida Senate

APPEARANCE RECORD

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1276
Bill Number or Topic

336640
Amendment Barcode (if applicable)

Name Brandon Blake

Phone (813) 848-0600

Address 117 S. Gadsden Street, Suite A
Street

Email bab@bolin-law.com

Tallahassee
City State Zip

Speaking: [x] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:
Florida Justice Reform Institute

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

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S-001 (08/10/2021)

2/7/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate

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1276
Bill Number or Topic

Amendment Barcode (if applicable)

Name Adam Basford

Phone 352-538-4299

Address 516 N Adams St
Street

Email abasford@aif.com

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:

Associated Industries of Florida

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7
Meeting Date

1276
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Litigation Financing

Name Greg Black

Job Title

Address 1727 Highland Place
Street

Phone 509 8022

TLH FL 32308
City State Zip

Email greg@blackconsultingllc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

February 7

Meeting Date

Fiscal Policy

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1276

Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael W Carlson

Phone 850-544-9576

Address 215 S. Monroe St. Ste. 835

Street

Email michael.carlson@piff.net

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:

The Personal INSURANCE Federation of Florida

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/7/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate
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1276
Bill Number or Topic

Amendment Barcode (if applicable)

Name Katie Webb

Phone 850 2286016

Address 119 E Park Ave
Street

Email kwebb@colodnyfass.com

Tall 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:

APCIA

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/7/24
Meeting Date

Fiscal Policy
Committee

Deliver both copies of this form to
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1274
Bill Number or Topic

Amendment Barcode (if applicable)

Name Caitlin Murray Phone (850) 491-8424

Address 850 S. Gadsden St. Email cmurray@namic.org
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:
NAMIC

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/7/2024
Meeting Date

Fiscal Policy
Committee

The Florida Senate
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1276
Bill Number or Topic

Amendment Barcode (if applicable)

Name ALIX MILLER

Phone 850-222-9900

Address 350 E. College Ave
Street

Email alix@floridatrucking.org

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:

Florida Trucking Association

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

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/24
Meeting Date

SB1276
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic: Litigation Financing

Name: Maryann Furman

Job Title: Trial Lawyer

Address: 201 ALt. 19S.
Street

Palm Harbor, FL. 34683
City State Zip

Phone: 727-807-6182

Email: maryann@thenurselawyer.com

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

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

Representing: Self

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/24
Meeting Date

SB 1276
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Litigation Financing

Name Carolyn Johnson

Job Title VP

Address 136 S Bronough St
Street

Tallahassee FL 32301
City State Zip

Phone 521-1200

Email cjohnson@flchamber.com

Speaking: [x] For [ ] Against [ ] Information

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

Representing FL Chamber of Commerce

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

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

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S-001 (10/14/14)

02.07.24
Meeting Date

The Florida Senate
APPEARANCE RECORD

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1276
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Brandon Blake

Phone (813) 848-0600

Address 117 S. Gadsden Street, Suite A
Street

Email bab@bolin-law.com

Tallahassee
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 Justice Reform Institute

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/24
Meeting Date

1276
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Litigation Financing

Name Bill Cotterall

Job Title

Address 218 S Monroe St
Street

Tallahassee FL 32301
City State Zip

Phone

Email

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

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

Representing Florida Justice Association

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/7/24
Meeting Date

1276
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Litigation Financing

Name George Feijoo ("Fay-Jew")

Job Title Consultant

Address 108 S. Monroe St.
Street

Tallahassee FL 32301
City State Zip

Phone 305 720 7099

Email grfeijoo@gmail.com

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

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

Representing U.S. Chamber Institute for Legal Reform

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

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

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S-001 (10/14/14)

2/7/24
Meeting Date

Fiscal Policy
Committee

The Florida Senate

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1276
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tim Nungesser

Phone 850-445-5367

Address 110 E. Jefferson St.
Street

Email tim.nungesser@nfib.org

Tallahassee FL 32301
City State Zip

Speaking: [x] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:
WFIB

[ ] 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. 2020-2022JointRules.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 Fiscal Policy

BILL: CS/SB 1350

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Salvage

DATE: February 5, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Vickers	TR	**Fav/CS**
2.	Carroll	Rogers	EN	**Favorable**
3.	Johnson	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1350 relates to salvage motor vehicles, mobile homes, and vessels. The bill:

- Incorporates vessels into the definition of "independent entity" for purposes of incorporating vessels into the salvage certificate of title statute.
- Defines "major component parts" of electric, hybrid, and plug-in hybrid motor vehicles for verifying the sources of these parts during the rebuilt inspection process.
- Requires, if the owner maintains possession of a total loss motor vehicle or mobile home, that the owner or insurance company or owner notify the Department of Highway Safety and Motor Vehicles (DHSMV), and DHSMV must issue a salvage certificate of title or a certificate of destruction directly to the owner of such motor vehicle or mobile home.
- Incorporates damaged or dismantled "vessel" to the salvage statute and provides procedures for the release and application for titling by an independent entity in possession of the vessel.
- Reenacts statutes relating to the sale of specified motor vehicles and the rebuilt motor vehicle inspection program to incorporate changes to the definition of "major component parts."

The bill takes effect July 1, 2024.

II. Present Situation:

Electric, Hybrid, and Plug-in Hybrid Vehicle Major Component Parts

Salvage motor vehicle dealers who purchase a major component part of a vehicle must record the date of purchase and the name, address, and personal identification card number of the seller, as well as the vehicle identification number, if available.[1] Before a salvage motor vehicle dealer can resell a salvage motor vehicle or its parts, the motor vehicle's title must indicate it is rebuilt, which requires a rebuilt inspection to assure the identity of the vehicle and all major component parts repaired or replaced.[2]

The current definition of "major component parts" provided in s. 319.30(1)(j), F.S., is specific to combustion engines and does not include parts of electric, hybrid, and plug-in hybrid motor vehicles that may be considered major component parts.

Total Loss Motor Vehicles or Mobile Homes

Under current law, the owner, including persons who are self-insured, of a motor vehicle or mobile home that is considered salvage must, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the Department of Highway Safety and Motor Vehicles (DHSMV) for processing. However, an insurance company that pays money as compensation for the total loss of a motor vehicle or mobile home must obtain the certificate of title for the motor vehicle or mobile home, make the required notification to the National Motor Vehicle Title Information System (NMVTIS),[3] and, within 72 hours after receiving such certificate of title, forward such title to DHSMV for processing.

The owner or insurance company, as applicable, may not dispose of a vehicle or mobile home that is a total loss before it obtains, from DHSMV, a salvage certificate of title or certificate of destruction. Effective January 1, 2020:

- Thirty days after payment of a claim for compensation, the insurance company may receive, from DSHMV, a salvage certificate of title or certificate of destruction if the insurance company is unable to obtain a properly assigned certificate of title from the owner or lienholder of the motor vehicle or mobile home, if the motor vehicle or mobile home does not carry an electronic lien on the title and the insurance company:
  - Has obtained the release of all liens on the motor vehicle or mobile home;
  - Has attested on a DHSMV-provided form that payment of the total loss claim has been distributed; and
  - Has attested on a DHSMV-provided form and signed by the insurance company or its authorized agent stating the attempts that have been made to obtain the title from the owner or lienholder and further stating that all attempts are to no avail. The form must

---

[1] Section 319.30(6)(a), F.S.

[2] Sections 319.141 and 319.14, F.S.

[3] Section 319.30(1)(o), F.S., defines the term "National Motor Vehicle Title Information System" to mean the national mandated vehicle history database maintained by the United States Department of Justice to link the states' motor vehicle title records, including Florida's Department of Highway Safety and Motor Vehicles' title records, and ensure that states, law enforcement agencies, and consumers have access to vehicle titling, branding, and other information that enables them to verify the accuracy and legality of a motor vehicle title before purchase or title transfer of the vehicle occurs.

include a request that the salvage certificate of title or certificate of destruction be issued in the insurance company's name due to payment of a total loss claim to the owner or lienholder. The attempts to contact the owner may be by written request delivered in person or by first-class mail with a certificate of mailing to the owner's or lienholder's last known address.

- If the owner or lienholder is notified of the request for title in person, the insurance company must provide an affidavit attesting to the in-person request for a certificate of title.
- The request to the owner or lienholder for the certificate of title must include a complete description of the motor vehicle or mobile home and a statement that a total loss claim has been paid on the motor vehicle or mobile home.[4]

Independent Entities Possessing Damaged or Dismantled Vehicles or Vessels

For purposes of s. 319.30, F.S., the term "independent entity" means a business or entity that may temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and is engaged in the same or resale of damaged motor vehicle. The term does not include a wrecker operator, a towing company, or repair facility.[5]

Under current law, when an independent entity is in possession of a damaged or dismantled motor vehicle, an insurance company can notify the independent entity, with a DHSMV-prescribed form, authorizing the release of the motor vehicle to the owner. The form contains: the policy and claim number, the name and address of the insured, the vehicle identification number, and the signature of an authorized representative of the insurance company.[6]

Upon receiving this form, the independent entity must notify the owner that the motor vehicle is available for pickup. The notification must be sent by certified mail or another commercially available delivery service that provides proof of delivery to the owner at the owner's address contained in the DHSMV's records. If the vehicle is not claimed within 30 days after delivery or attempted delivery of the notice, the independent entity may apply for a certificate of destruction or a certificate of title.[7]

If DHSMV's records do not contain the motor vehicle owner's address, the independent entity must:

- Send the required notification to the owner's address that is provided by the insurance company in the release statement; and
- Identify the latest titling jurisdiction of the vehicle though NMVTIS or an equivalent commercially available system in an attempt to obtain the owner's address from that jurisdiction. If the jurisdiction provides an address that is different from the owner's address provided by the insurance company, the independent entity must provide the required notice to both addresses.[8]

---

[4] Section 319.30(3)(b), F.S
[5] Section 319.30(1)(g), F.S.
[6] Section 319.30(9)(a), F.S.
[7] Section 319.30(9)(b), F.S.
[8] Section 319.30(9)(c), F.S.

The independent entity must maintain all records related to the 30-day notice and searches in the NMVTIS for three years.[9] Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide a copy of the release statement from the insurance company, proof of the 30-day notice sent to the owner, proof of notification to the NMVTIS, proof of all lien satisfactions or proof of a release of all liens on the motor vehicle, and applicable fees.[10]

Currently, the above process does not currently include vessels. The need to include a process for returning to owners, or obtaining salvage certificates of title, for damaged or dismantled vessels in the possession of independent entities became evident following Hurricane Ian in 2022.

III. Effect of Proposed Changes:

Electric, Hybrid, and Plug-in Hybrid Vehicle Major Component Parts

The bill amends s. 319.30(1)(j), F.S., defining the term “major component parts” to include for electric, hybrid, or plug-in hybrid motor vehicles or trucks, in addition to parts currently listed, any electric traction motor, electronic transmission, charge port, DC power converter, onboard charger, power electronics controller, thermal system, traction battery pack, or airbag.

Total Loss Motor Vehicles or Mobile Homes

The bill amends s. 319.30(3)(b), F.S., providing that if the owner maintains possession of a motor vehicle or mobile home in connection with a total loss claim settlement for such motor vehicle or mobile home, the owner must, within 72 hours of the motor vehicle or mobile home becoming salvage, or the insurance company must, within 72 hours after receiving the certificate of title for motor vehicle or mobile home, forward the certificate of title to the motor vehicle or mobile home to DHSMV for processing, and DHSMV must issue a salvage certificate of title or certificate of destruction directly to the motor vehicle or mobile home owner rather than to the insurance company or its agent.

The bill clarifies that the certificate of title may be either paper or electronic.

The bill provides that as an alternative for the insurance company having received a release of all liens, it may pay the amount due to the lienholder and obtain proof that the lienholder accepts payment as satisfying the amount due to the lienholder.

The bill clarifies that attempts to contact to the owner or lienholder must be to the owner or lienholder’s last known address.

The bill adds that the request to the owner or lienholder for the assignment of title, in lieu of the certificate of title, must include a complete description of the motor vehicle or mobile home and that a total loss claim has been paid on the motor vehicle or mobile home.

[9] Section 319.30(9)(d), F.S.
[10] Section 319.30(9)(f), F.S.

The bill provides that DHSMV is not liable and may not be held liable to an owner, lienholder, or any other person as a result of the issuance of a salvage certificate of title or a certificate of destruction.

Independent Entities Possessing Damaged or Dismantled Vehicles or Vessels

The bill amends s. 319.30, F.S., expanding the authority of independent entities to allow them to temporarily store damaged or dismantled vessels pursuant to an agreement with an insurance company and participate in the sale or resale of such vessels. For this purpose, a vessel is defined as every description of a watercraft, barge, and airboat used or capable of being used as a means of transportation on water.[11]

The bill treats vessels the same as motor vehicles in possession of an independent entity with the following exceptions:

- On the DHSMV-prescribed form, the vessel's hull identification number is reported, instead of the vehicle identification number.
- If the vessel is hull-damaged, the independent entity must comply, as applicable, with the "Hull Damaged" title brand designation requirements outlined in s. 328.045, F.S., and that the application must indicate "Hull Damaged."
- The independent entity is not required to notify NMVTIS before releasing the vessel to the owner or before applying for a certificate of title as defined in s. 328.0015, F.S[12].

Conforming Changes

The bill reenacts s. 319.14(1)(b), F.S., relating to the sale of specified motor vehicles, and s. 319.141(1)(b), F.S., relating to the rebuilt motor vehicle inspection program, incorporating changes made by the bill to the term "major component parts" to other provisions of statute.

Effective Date

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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[11] This is as provided in s. 713.78(1)(b), F.S., which excludes a seaplane or a vessel for which a valid certificate of documentation is outstanding pursuant to 46 C.F.R. part 67.

[12] Section 328.0015(1)(f), F.S., defines the term "certificate of title" to mean a record, created by DSHMV or by a governmental agency of another jurisdiction under the law of that jurisdiction, that is designated as a certificate of title by DHSMV or agency and is evidence of ownership of a vessel.

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 Department of Highway Safety and Motor Vehicles' (DHSMV's) direct issuance of a certificate of title or certificate of destruction when the owner retains a total loss vehicle or vessel will have an indeterminate positive impact on insurance companies due to the streamlined process.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on DHSMV associated with the inspection of electric, hybrid, and plug-in hybrid motor vehicles.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 319.30 of the Florida Statutes.

This bill reenacts portions of sections 319.14 and 319.141 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 Transportation on January 23, 2024:
The committee substitute:

- Defines the term “major component parts” for electric, hybrid, or plug-in hybrid motor vehicles or trucks.
- Clarifies the titling for salvage motor vehicles and mobile homes being retained by the owner.
- Revises the lien release process for total loss motor vehicles.
- Provides a titling process for abandoned vessels.
- Removes the changes to the statutory definition of “hull damaged” as it relates to vessels.
- Makes technical and conforming changes.

B. Amendments:

None.

By the Committee on Transportation; and Senator DiCeglie

A bill to be entitled

An act relating to salvage; amending s. 319.30, F.S.; revising and defining terms; revising provisions relating to obtaining a salvage certificate of title or certificate of destruction; exempting the Department of Highway Safety and Motor Vehicles from liability to certain persons as a result of the issuance of such certificates; providing requirements for an independent entity's release of a damaged or dismantled vessel to the owner; authorizing the independent entity to apply for certain certificates for an unclaimed vessel; providing requirements for such application; specifying provisions to which the independent entity is subject; prohibiting the independent entity from charging vessel storage fees; reenacting ss. 319.14(1)(b) and 319.141(1)(b), F.S., relating to the sale of motor vehicles registered or used as specified vehicles and the definition of the term "rebuilt inspection services" as used in the rebuilt motor vehicle inspection program, respectively, to incorporate the amendment made to s. 319.30, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraphs (g) and (j) of subsection (1), paragraph (b) of subsection (3), and subsection (9) of section 319.30, Florida Statutes, are amended, and paragraph (y) is

added to subsection (1) of that section, to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle, vessel, or mobile home; salvage.—

(1) As used in this section, the term:

(g) "Independent entity" means a business or entity that may temporarily store damaged or dismantled motor vehicles or vessels pursuant to an agreement with an insurance company and that is engaged in the sale or resale of damaged or dismantled motor vehicles or vessels. The term does not include a wrecker operator, a towing company, or a repair facility.

(j) "Major component parts" means:

1. Except as provided in subparagraph 3., for motor vehicles other than motorcycles, any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag.

2. Except as provided in subparagraph 3., for trucks, in addition to those parts listed in subparagraph 1., any truck bed, including dump, wrecker, crane, mixer, cargo box, or any bed which mounts to a truck frame.

3. For electric, hybrid, or plug-in hybrid motor vehicles or trucks, in addition to the parts listed in subparagraphs 1. and 2., respectively, any electric traction motor, electronic transmission, charge port, DC power converter, onboard charger, power electronics controller, thermal system, traction battery pack, or airbag.

4. For motorcycles, the body assembly, frame, fenders, gas tanks, engine, cylinder block, heads, engine case, crank case, transmission, drive train, front fork assembly, and wheels.

5.~~4.~~ For mobile homes, the frame.

(y) “Vessel” has the same meaning as in s. 713.78(1)(b).

(3)

(b) The owner, including persons who are self-insured, of a motor vehicle or mobile home ~~that is~~ considered to be salvage shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, and except as provided in this paragraph for a motor vehicle or mobile home retained by the owner in connection with a total loss claim settlement, an insurance company that pays money as compensation for the total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home, make the required notification to the National Motor Vehicle Title Information System, and, within 72 hours after receiving such certificate of title, forward such title by the United States Postal Service, by another commercial delivery service, or by electronic means, when such means are made available by the department, to the department for processing. However, if the owner retains possession of a motor vehicle or mobile home in connection with a total loss claim settlement for such motor vehicle or mobile home, the owner must, within 72 hours after the motor vehicle or mobile home becomes salvage, or the insurance company must, within 72 hours after receiving the certificate of title for such motor vehicle or mobile home, forward the certificate of title to the motor vehicle or mobile home to the department for processing, and the department must issue a salvage certificate of title or certificate of destruction directly to the motor vehicle or mobile home owner

rather than to the insurance company or its agent. The owner or insurance company, as applicable, may not dispose of a motor vehicle or mobile home that is a total loss before it obtains a salvage certificate of title or certificate of destruction from the department. ~~Effective January 1, 2020:~~

1. Thirty days after payment of a claim for compensation pursuant to this paragraph, the insurance company may receive a salvage certificate of title or certificate of destruction from the department if the insurance company is unable to obtain a properly assigned paper certificate of title from the owner or lienholder of the motor vehicle or mobile home or a properly completed assignment of an electronic certificate of title from the owner of~~, if~~ the motor vehicle or mobile home ~~does not carry an electronic lien on the title~~ and the insurance company:

a. Has obtained the release of all liens on the motor vehicle or mobile home, or has paid the amount due to the lienholder and has obtained proof that the lienholder accepts payment as satisfying the amount due to the lienholder;

b. Has attested on a form provided by the department that payment of the total loss claim has been distributed; and

c. Has attested on a form provided by the department and signed by the insurance company or its authorized agent stating the attempts that have been made to obtain the paper certificate of title or a properly completed assignment of an electronic certificate of title from the owner or lienholder and further stating that all attempts are to no avail. The form must include a request that the salvage certificate of title or certificate of destruction be issued in the insurance company’s name due to payment of a total loss claim to the owner or lienholder. The attempts to contact the owner or lienholder may be by written request delivered in person or by first-class mail with a certificate of mailing to the owner's last known address or lienholder's last known address, respectively.

2. If the owner or lienholder is notified of the request for title or assignment of title in person, the insurance company must provide an affidavit attesting to the in-person request for a certificate of title or assignment of title.

3. The request to the owner or lienholder for the certificate of title or to the owner or lienholder for the assignment of title must include a complete description of the motor vehicle or mobile home and the statement that a total loss claim has been paid on the motor vehicle or mobile home.

4. The department is not liable and may not be held liable to an owner, a lienholder, or any other person as a result of the issuance of a salvage certificate of title or a certificate of destruction pursuant to subparagraph 1.

(9)(a) An insurance company may notify an independent entity that obtains possession of a damaged or dismantled motor vehicle or vessel to release the vehicle or vessel to the owner. The insurance company shall provide the independent entity a release statement on a form prescribed by the department authorizing the independent entity to release the vehicle or vessel to the owner or lienholder. The form must, at a minimum, contain the following:

1. The policy and claim number.

2. The name and address of the insured.

3. The vehicle identification number or vessel hull identification number.

4. The signature of an authorized representative of the insurance company.

(b) The independent entity in possession of a motor vehicle or vessel must send a notice to the owner that the motor vehicle or vessel is available for pickup when it receives a release statement from the insurance company. The notice must ~~shall~~ be sent by certified mail or by another commercially available delivery service that provides proof of delivery to the owner at the owner's address contained in the department's records. The notice must state that the owner has 30 days after delivery of the notice to the owner at the owner's address to pick up the motor vehicle or vessel from the independent entity. If the motor vehicle or vessel is not claimed within 30 days after the delivery or attempted delivery of the notice, the independent entity may apply for a certificate of destruction, a salvage certificate of title, or a certificate of title for a motor vehicle or a certificate of title as defined in s. 328.0015 for a vessel. For a vessel that is hull damaged as defined in s. 328.0015, the application must indicate "Hull Damaged."

(c) If the department's records do not contain the owner's address, the independent entity must do all of the following:

1. Send a notice that meets the requirements of paragraph (b) to the owner's address that is provided by the insurance company in the release statement.

2. For a motor vehicle, identify the latest titling jurisdiction of the vehicle through use of the National Motor Vehicle Title Information System or an equivalent commercially available system and attempt to obtain the owner's address from that jurisdiction. If the jurisdiction returns an address that

is different from the owner's address provided by the insurance company, the independent entity must send a notice that meets the requirements of paragraph (b) to both addresses.

(d) The independent entity shall maintain for at least ~~a minimum of~~ 3 years the records related to the 30-day notice sent to the owner. For motor vehicles, the independent entity shall also maintain for at least 3 years the results of searches of the National Motor Vehicle Title Information System or an equivalent commercially available system, and the notification to the National Motor Vehicle Title Information System made pursuant to paragraph (e).

(e) The independent entity shall make the required notification to the National Motor Vehicle Title Information System before releasing any damaged or dismantled motor vehicle to the owner or before applying for a certificate of destruction or salvage certificate of title. The independent entity is not required to notify the National Motor Vehicle Title Information System before releasing any damaged or dismantled vessel to the owner or before applying for a certificate of title as defined in s. 328.0015.

(f) Upon applying for a certificate of destruction, ~~or~~ salvage certificate of title, or certificate of title for a motor vehicle or for a certificate of title as described in paragraph (b) for a vessel, the independent entity shall provide a copy of the release statement from the insurance company to the independent entity, proof of providing the 30-day notice to the owner, proof of notification to the National Motor Vehicle Title Information System if required, proof of all lien satisfactions or proof of a release of all liens on the motor

vehicle or vessel, and applicable fees. If the independent entity is unable to obtain a lien satisfaction or a release of all liens on the motor vehicle or vessel, the independent entity must provide an affidavit stating that notice was sent to all lienholders that the motor vehicle or vessel is available for pickup, 30 days have passed since the notice was delivered or attempted to be delivered pursuant to this section, attempts have been made to obtain a release from all lienholders, and all such attempts have been to no avail. The notice to lienholders and attempts to obtain a release from lienholders may be by written request delivered in person or by certified mail or another commercially available delivery service that provides proof of delivery to the lienholder at the lienholder's address as provided on the certificate of title for a motor vehicle or on the certificate of title as defined in s. 328.0015 for a vessel and to the address designated with the Department of State pursuant to s. 655.0201(2) if such address is different.

(g) The independent entity may not charge an owner of the vehicle or vessel storage fees or apply for a title under s. 713.585 or s. 713.78.

Section 2. For the purpose of incorporating the amendment made by this act to section 319.30, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 319.14, Florida Statutes, is reenacted to read:

319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, rebuilt vehicles, nonconforming vehicles, custom vehicles, or street rod vehicles; conversion of low-speed vehicles.—

(1)

(b) A person may not knowingly offer for sale, sell, or exchange a rebuilt vehicle until the department has stamped in a conspicuous place on the certificate of title for the vehicle words stating that the vehicle has been rebuilt or assembled from parts, or is a kit car, glider kit, replica, flood vehicle, custom vehicle, or street rod vehicle unless proper application for a certificate of title for a vehicle that is rebuilt or assembled from parts, or is a kit car, glider kit, replica, flood vehicle, custom vehicle, or street rod vehicle has been made to the department in accordance with this chapter and the department has conducted the physical examination of the vehicle to assure the identity of the vehicle and all major component parts, as defined in s. 319.30(1), which have been repaired or replaced. Thereafter, the department shall affix a decal to the vehicle, in the manner prescribed by the department, showing the vehicle to be rebuilt.

Section 3. For the purpose of incorporating the amendment made by this act to section 319.30, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 319.141, Florida Statutes, is reenacted to read:

319.141 Rebuilt motor vehicle inspection program.—

(1) As used in this section, the term:

(b) “Rebuilt inspection services” means an examination of a rebuilt vehicle and a properly endorsed certificate of title, salvage certificate of title, or manufacturer’s statement of origin and an application for a rebuilt certificate of title, a rebuilder’s affidavit, a photograph of the junk or salvage vehicle taken before repairs began, if available, a photograph of the interior driver and passenger sides of the vehicle if

airbags were previously deployed and replaced, receipts or invoices for all major component parts, as defined in s. 319.30, and repairs which were changed, and proof that notice of rebuilding of the vehicle has been reported to the National Motor Vehicle Title Information System.

Section 4. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

2-7-24

Meeting Date

Fiscal Policy

Committee

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

1350

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ron LaFace

Phone

Address 124 W Jefferson St

Street

Email

TLH 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:

IAA

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/7/24
Meeting Date

1350
Bill Number (if applicable)

Topic Salvage

Amendment Barcode (if applicable)

Name Clark Smith

Job Title Lobbyist

Address 123 S. Adams street
Street

Phone (850) 251 3218

Tallahassee FL 32301
City State Zip

Email csmith@thesoutherngroup.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Copart

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 Fiscal Policy

BILL:	CS/CS/SB 1566
INTRODUCER:	Fiscal Policy Committee; Regulated Industries Committee and Senator Hutson
SUBJECT:	Fees/Fantasy Sports Contest Operator
DATE:	February 8, 2024 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Fav/CS**
2.	Kraemer	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1566 imposes license fees on certain fantasy sports contest operators who offer fantasy sports contests for a cash prize to members of the public in this state. Contest operators must pay an initial license application fee of $500,000 and renewal fees of $250,000 annually. Such fees may not exceed 10 percent of the difference between the amount of entry fees collected by a contest operator from the operation of fantasy sports contests in this state, and the amount of cash or cash equivalents paid to contest participants in this state. These license fees do not apply to individuals who act as noncommercial contest operators, as defined in SB 1568, who collect and distribute entry fees totaling no more than $1,500 per season or $10,000 annually, and who meet other specified requirements. The fees are to be paid to the Florida Gaming Control Commission (commission) and deposited in the Pari-mutuel Wagering Trust Fund.

SB 1568 (Fantasy Sports Contest Amusement Act), is a linked bill that addresses authorized fantasy sports contests.

The impact on state revenues and expenditures is indeterminate. There is no impact expected on local government revenues and expenditures. *See* Section V, Fiscal Impact Statement.

The bill is effective on the same date that SB 1568 (Fantasy Sports Contest Amusement Act) or similar legislation) takes effect, if adopted in the same legislative session or any extension, and becomes law.

II. Present Situation:

Background

In general, gambling is illegal in Florida.[1] Chapter 849, F.S., prohibits keeping a gambling house,[2] running a lottery,[3] or the manufacture, sale, lease, play, or possession of slot machines.[4] In Florida, if a gaming activity is not expressly authorized by law, then the activity constitutes illegal gambling. In addition to the activities the Seminole Tribe of Florida is authorized by law to conduct pursuant to ch. 285.710, F.S.,[5] the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[6] wagering at licensed greyhound and horse tracks and jai alai frontons;[7]
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[8]
- Cardrooms[9] at certain pari-mutuel facilities;[10]
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;[11]
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;[12] and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
  - Penny-ante games;[13]
  - Bingo;[14]
  - Charitable drawings;[15]
  - Game promotions (sweepstakes);[16] and

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[1] See s. 849.08, F.S.
[2] *See* s. 849.01, F.S.
[3] *See* s. 849.09, F.S.
[4] Section 849.16, F.S.
[5] *See* s. 285.710(3), F.S. The activities currently authorized to be conducted by the Seminole Tribe of Florida subject to limitations described in s. 285.710, F.S., and the 2021 Gaming Compact, include the following: slot machines; banking or banked card games (such as blackjack, limited to the tribal facilities in Broward County, Collier County, and Hillsborough County); raffles and drawings; craps and other dice games; roulette; fantasy sports contests; and sports betting.
[6] "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(22), F.S.
[7] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[8] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.
[9] Section 849.086, F.S. *See* s. 849.086(2)(c), F.S., which defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."
[10] *See* Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023* (Annual Report), at p. 15, at https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 23, 2024), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.
[11] Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.
[12] *See* s. 546.10, F.S.
[13] *See* s. 849.085, F.S.
[14] *See* s. 849.0931, F.S.
[15] *See* s. 849.0935, F.S.
[16] *See* s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

- Bowling tournaments.[17]

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[18]

The 1968 State Constitution states that "[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . ." are prohibited.[19] A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.[20]

Enforcement of Gaming Laws and Florida Gaming Control Commission

In 202l, the Legislature updated Florida law for authorized gaming in the state, and for enforcement of the gambling laws[21] and other laws relating to authorized gaming.[22] The Office of Statewide Prosecution in the Department of Legal Affairs is authorized to investigate and prosecute, in addition to gambling offenses, any violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), which are referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).[23]

In addition to the enhanced authority of the Office of Statewide Prosecution, the commission was created[24] within the Department of Legal Affairs. The commission has two divisions, including the Division of Gaming Enforcement (DGE), and the Division of Pari-mutuel Wagering

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[17] *See* s. 849.141, F.S.

[18] *See* s. 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state." *See also, Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), *review denied*, 412 So.2d 470, which states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936), and *Zimmerman v. State of Florida, Fla. Gaming Control Comm'n*, ___So.3d ___ (Fla. 5th DCA Jan. 12, 2024) *(Case No. 5D23-1062; not final until disposition of motions as set forth in the opinion)*.

[19] The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

[20] The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.

[21] *See* Special agents confiscate over 70 illegal gambling devices in Gadsden (tallahassee.com) and https://www.tcpalm.com/story/news/crime/st-lucie-county/2023/10/24/st-lucie-county-deputies-raid-close-arcade-accused-of-gambling/71302519007/ relating to recent enforcement by local law enforcement and agents of the Florida Gaming Control Commission (both last visited Jan. 23, 2024).

[22] See ch. 2021-268, Laws of Fla., (Implementation of 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida); ch. 2021-269, Laws of Fla., (Gaming Enforcement), ch. 2021-270, Laws of Fla., (Public Records and Public Meetings), and 2021-271, Laws of Fla., (Gaming), as amended by ch. 2022-179, Laws of Fla., (Florida Gaming Control Commission). Conforming amendments are made in ch. 2022-7, Laws of Fla., (Reviser's Bill) and ch. 2023-8, Laws of Fla., (Reviser's Bill).

[23] Section 16.56(1)(a), F.S.

[24] Section 16.71, F.S.

(DPMW) which was transferred from the Department of Business and Professional Regulation (DBPR) effective July 1, 2022.[25]

Fantasy Sports Contests

The operation of fantasy sports activities in Florida has recently received significant publicity, much like the operation of internet cafes in recent years. Many states are now evaluating the status of fantasy gaming activities in their jurisdictions,[26] as there are millions of participants.[27] A fantasy game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators.

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,[28] provides that a person who wagers any "thing of value" upon the result of a contest of skill or endurance of human or beast, or who receives any money wagered, or who knowingly becomes the custodian of money or other thing of value that is wagered, is guilty of a second degree misdemeanor.[29] The commission has issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida's gambling laws. The letters have generated controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state (as discussed below).[30] The legality of various forms of fantasy sports games and contests is being reviewed and addressed in a number of states.[31]

III. Effect of Proposed Changes:

The bill imposes license fees on certain fantasy sports contest operators[32] who offer fantasy sports contests for a cash prize to members of the public. Contest operators must pay an initial

[25] *See* ch. 2021-269, s. 11, Laws of Fla., which delineates the transfer of the DPMW to the commission from the DBPR.
[26] *See* Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, Journal of Sports & Entertainment Law, Harvard Law School Vol. 3 (Jan. 2012) available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272 (last visited Jan. 23, 2024).
[27] According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as "rotisserie leagues" with the development of Rotisserie League Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. *See* https://thefsga.org/history/ (last visited Jan. 23, 2024).
[28] *See* Fla. AGO 91-03 (Jan. 7, 1991) *available at* https://www.myfloridalegal.com/ag-opinions/gambling-fantasy-sports-league (last visited Jan. 23, 2024).
[29] A conviction for a second degree misdemeanor may subject the violator to a definite term of imprisonment not exceeding 60 days, and a fine not exceeding $500. *See* ss. 775.082 and 775.083, F.S.
[30] *See* https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports (last visited Jan. 23, 2024).
[31] *See* State Regulators Take Closer Look At Fantasy Sports Operators (sportshandle.com) (last visited Jan. 23, 2024).
[32] SB 1568 (Fantasy Sports Contest Amusement Act) defines the term "contest operator" to mean "a person or entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state. The term "noncommercial contest operator" is defined to mean "a natural person who organizes and conducts a fantasy or simulation sports contest in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and

license application fee of $500,000 and renewal fees of $250,000 annually. Such fees may not exceed 10 percent of the difference between the amount of entry fees collected by a contest operator from the operation of fantasy sports contests in this state, and the amount of cash or cash equivalents paid to contest participants in this state.

These license fees do not apply to individuals who act as noncommercial contest operators by organizing and conducting fantasy or simulation sports contests in which:

- Contest participants are charged entry fees for the right to participate;
- Entry fees are collected, maintained, and distributed by the same natural person;
- The total entry fees collected, maintained, and distributed total no more than $1,500 per season or $10,000 per calendar year; and
- All entry fees are returned to the contest participants in the form of prizes.

The bill provides the commission must require a contest operator applicant to provide written evidence to the commission of the proposed amount of entry fees and cash or cash equivalents to be paid to contest participants during the annual license period. Before a license renewal, a contest operator must:

- Provide written evidence to the commission of the actual entry fees collected and cash or cash equivalents paid to contest participants during the previous period of licensure; and
- Remit to the commission any difference in a license fee which results from the difference between the proposed amount of entry fees and cash or cash equivalents paid to contest participants, and the actual amounts collected and paid during the previous period of licensure.

Under the bill, fees for state and federal fingerprint processing and retention must be borne by license applicants; the state cost for fingerprint processing must meet the requirements of s. 943.053(3)(e), F.S., for records provided to persons or entities other than as specified in that section. The commission also may charge a $2 handling fee for each set of fingerprints submitted for a contest operator license.

The bill requires all fees collected by the commission under s. 546.151, F.S., to be deposited into the Pari-mutuel Wagering Trust Fund.

The bill is effective on the same date that SB 1568 (Fantasy Sports Contest Amusement Act) or similar legislation) takes effect, if adopted in the same legislative session or any extension, and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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distributed by such natural person do not exceed $1,500 per season or a total of $10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes." *Id*.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Section 19 of Article VII of the State Constitution requires a "state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject." A "fee" is defined by the Florida Constitution to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service."[33]

Section 19 of Article VII of the State Constitution also requires that a tax or fee raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill imposes initial license and annual renewal fees on certain fantasy sports contest operators who offer fantasy sports contests to members of the public in this state.

B. Private Sector Impact:

Certain licensed fantasy sports contest operators who offer fantasy sports contests to members of the public in this state will be required to pay an initial application fee and annual renewal fees for licensure as a contest operator, as described in the bill.

C. Government Sector Impact:

The creation of an additional licensing and regulatory structure for the conduct of fantasy sports contests by licensed persons may result in a fiscal impact to the commission. According to the commission, the bill will likely require a Revenue Impact Conference where revenue estimates are formally adopted by conference constituents, but estimates the fiscal impact for the Pari-Mutuel Wagering Trust Fund is as follows:[34]

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[33] FLA. CONST. art. VII, s. 19(d)(1).

[34] *See* Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 1566* at 4-5 (Jan. 19, 2024) (on file with the Senate Committee on Regulated Industries).

1. Positive Indeterminate due to the unknown number of fantasy sports contest operators that may apply for an initial license and renewals annually thereafter, and the language in the bill that prohibits the respective fees exceeding 10 percent of the difference between the amount of entry fees collected by a contest operator from the operation of fantasy sports contests in this state and the amount of cash or cash equivalents paid to contest participants in this state the amount of licensing fees.
2. Slight increase in revenue associated with a contest operator license applicant's fingerprint processing fee, plus the $2 handling fee the Commission may charge for each set of fingerprints submitted. Fees would be collected and deposited into the Pari-Mutuel Trust Fund and then pass-through to the Florida Department of Law Enforcement.

The commission also notes the bill will require configuration changes to the current licensing system and software, to add a new license category for fantasy contest operators.[35]

The Florida Department of Law Enforcement (FDLE) notes it has inquired of the commission to obtain an estimate of the potential increase, if any, in additional screenings required by the bill, and that the fiscal impact to state government is currently indeterminate.[36]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:+

This bill creates section 546.151 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Fiscal Policy Committee on February 7, 2024:
The committee substitute revises the initial license application fee payable to the Gaming Control Commission by a fantasy sports contest operator seeking to operate in Florida from $1 million to $500,000.

[35] *Id*. at 5.
[36] *See* Florida Department of Law Enforcement (FDLE) *2024 Agency Legislative Bill Analysis for SB 1566* at 3 (Jan. 12, 2024) (on file with the Senate Committee on Regulated Industries).

CS by Regulated Industries Committee on January 29, 2024:
The committee substitute includes the linked bill number, SB 1568, that addresses authorized fantasy sports contests, in the bill.

B. Amendments:

None.

902220

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2024	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hutson) recommended the following:

Senate Amendment

Delete lines 24 - 25

and insert:

operator shall pay an initial license application fee of $500,000 to the commission, and an applicant seeking to renew a

By the Committee on Regulated Industries; and Senator Hutson

A bill to be entitled

An act relating to fees; creating s. 546.151, F.S.; requiring applicants for a fantasy sports contest operator license to pay a specified application fee; requiring contest operators to pay a specified annual license renewal fee; prohibiting such fees from exceeding a specified amount; requiring applicants and contest operators to provide certain written evidence; requiring contest operators to remit certain fees; specifying that the costs for certain fingerprint processing and retention shall be borne by applicants; authorizing the Florida Gaming Control Commission to charge a specified handling fee related to fingerprint processing; requiring certain fees to be deposited into the Pari-mutuel Wagering Trust Fund; providing a contingent effective date.

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

Section 1. Section 546.151, Florida Statutes, is created to read:

546.151 Fees.—

(1) An applicant for a license as a fantasy sports contest operator shall pay an initial license application fee of $1 million to the commission, and an applicant seeking to renew a fantasy sports contest operator license shall pay an annual license renewal fee of $250,000 to the commission; however, the respective fees may not exceed 10 percent of the difference between the amount of entry fees collected by a contest operator

from the operation of fantasy sports contests in this state and the amount of cash or cash equivalents paid to contest participants in this state. The commission shall require a contest operator applicant to provide written evidence of the proposed amount of entry fees and cash or cash equivalents to be paid to contest participants during the annual license period. Before a license renewal, a contest operator must provide written evidence to the commission of the actual entry fees collected and cash or cash equivalents paid to contest participants during the previous period of licensure. Before a license renewal, a contest operator must remit to the commission any difference in a license fee which results from the difference between the proposed amount of entry fees and cash or cash equivalents paid to contest participants and the actual amounts collected and paid during the previous period of licensure.

(2) Fees for state and federal fingerprint processing and retention shall be borne by an applicant for a contest operator license. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

(3) The commission also may charge a $2 handling fee for each set of fingerprints submitted for a contest operator license.

(4) All fees collected by the commission under this section shall be deposited into the Pari-mutuel Wagering Trust Fund.

Section 2. This act shall take effect on the same date that SB 1568 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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 Fiscal Policy

BILL: SB 1568

INTRODUCER: Senator Hutson

SUBJECT: Fantasy Sports Contest Amusement Act

DATE: February 5, 2024 REVISED: ___ ___ ___ ___

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	**Favorable**
2.	Kraemer	Yeatman	FP	**Favorable**

I. Summary:

SB 1568 creates the Fantasy Sports Contest Amusement Act, which authorizes the offering of fantasy sports contests by contest operators to persons 21 years of age or older, and provides fantasy sports contests, as defined in the bill, involve the skill of contest participants.

The bill also authorizes the offering of fantasy sports contests by non-commercial contest operators, provided participants pay an entry fee and be 21 years of age or older. A noncommercial contest operator must pay all entry fees to participants as prizes, and may not pay fantasy sports contest prize monies exceeding $1,500 per season or $10,000 annually.

Contest operators other than noncommercial contest operators must be licensed by the Florida Gaming Control Commission (commission) and meet the requirements specified in the act for fantasy sports contests. The commission must enforce and administer the act, investigate and monitor the operation and play of fantasy sports contests, and may deny, suspend, or revoke any licenses for violation of state law or rule.

The commission must revoke a contest operator's license if the contest operator offers fantasy sports contests that violate s. 546.13(7)(c), F.S., created by the bill, if a winning outcome of a contest is:

> [B]ased on the score, point spread, or any performance or performances of any single actual team or combination of such teams; solely on any single performance of an individual athlete or player in a single actual event; on a pari-mutuel event, as the term "pari-mutuel" is defined in s. 550.002 [, F.S.]; on a game of poker or other card game; or on the performances of participants in collegiate, high school, or youth sporting events.

The impact on state revenues and expenditures is indeterminate. There is no impact expected on local government revenues and expenditures. *See* Section V, Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Background

In general, gambling is illegal in Florida.[1] Chapter 849, F.S., prohibits keeping a gambling house,[2] running a lottery,[3] or the manufacture, sale, lease, play, or possession of slot machines.[4] In Florida, if a gaming activity is not expressly authorized by law, then the activity constitutes illegal gambling. In addition to the activities the Seminole Tribe of Florida is authorized by law to conduct pursuant to ch. 285.710, F.S.,[5] the following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel[6] wagering at licensed greyhound and horse tracks and jai alai frontons;[7]
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;[8]
- Cardrooms[9] at certain pari-mutuel facilities;[10]
- The state lottery authorized by section 15 of Article X of the State Constitution and established under ch. 24, F.S.;[11]
- Skill-based amusement games and machines at specified locations as authorized by s. 546.10, F.S, the Family Amusement Games Act;[12] and
- The following activities, if conducted as authorized under ch. 849, relating to Gambling, under specific and limited conditions:
  - Penny-ante games;[13]
  - Bingo;[14]
  - Charitable drawings;[15]

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[1] See s. 849.08, F.S.
[2] *See* s. 849.01, F.S.
[3] *See* s. 849.09, F.S.
[4] Section 849.16, F.S.
[5] *See* s. 285.710(3), F.S. The activities currently authorized to be conducted by the Seminole Tribe of Florida subject to limitations described in s. 285.710, F.S., and the 2021 Gaming Compact, include the following: slot machines; banking or banked card games (such as blackjack, limited to the tribal facilities in Broward County, Collier County, and Hillsborough County); raffles and drawings; craps and other dice games; roulette; fantasy sports contests; and sports betting.
[6] "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(22), F.S.
[7] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[8] *See* FLA. CONST., art. X, s. 23, and ch. 551, F.S.
[9] Section 849.086, F.S. *See* s. 849.086(2)(c), F.S., which defines "cardroom" to mean "a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility."
[10] *See* Florida Gaming Control Commission, *Annual Report Fiscal Year 2022-2023* (Annual Report), at p. 15, at https://flgaming.gov/pmw/annual-reports/docs/2022-2023%20FGCC%20Annual%20Report.pdf (last visited Jan. 23, 2024), which states that of 29 licensed permitholders, 26 operated at a pari-mutuel facility.
[11] Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery; s. 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.
[12] *See* s. 546.10, F.S.
[13] *See* s. 849.085, F.S.
[14] *See* s. 849.0931, F.S.
[15] *See* s. 849.0935, F.S.

- Game promotions (sweepstakes);[16] and
- Bowling tournaments.[17]

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[18]

The 1968 State Constitution states that "[l]otteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . ." are prohibited.[19] A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds of the lottery are deposited to the Educational Enhancement Trust Fund (EETF) and appropriated by the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.[20]

Enforcement of Gaming Laws and Florida Gaming Control Commission

In 202l, the Legislature updated Florida law for authorized gaming in the state, and for enforcement of the gambling laws[21] and other laws relating to authorized gaming.[22] The Office of Statewide Prosecution in the Department of Legal Affairs is authorized to investigate and prosecute, in addition to gambling offenses, any violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), which are referred to the Office of Statewide Prosecution by the Florida Gaming Control Commission (commission).[23]
In addition to the enhanced authority of the Office of Statewide Prosecution, the commission was created[24] within the Department of Legal Affairs. The commission has two divisions, including the Division of Gaming Enforcement (DGE), and the Division of Pari-mutuel Wagering

[16] *See* s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[17] *See* s. 849.141, F.S.
[18] *See* s. 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state." *See also, Solimena v. State,* 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), *review denied*, 412 So.2d 470, which states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936), and *Zimmerman v. State of Florida, Fla. Gaming Control Comm'n*, ___So.3d ___ (Fla. 5th DCA Jan. 12, 2024) *(Case No. 5D23-1062; not final until disposition of motions as set forth in the opinion)*.
[19] The pari-mutuel pools that were authorized by law on the effective date of the State Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.
[20] The Department of the Lottery is authorized by s. 15, Art. X of the State Constitution. Chapter 24, F.S., was enacted by ch. 87-65, Laws of Fla., to establish the state lottery. Section 24.102, F.S., states the legislative purpose and intent for the operations of the state lottery.
[21] *See* Special agents confiscate over 70 illegal gambling devices in Gadsden (tallahassee.com) and https://www.tcpalm.com/story/news/crime/st-lucie-county/2023/10/24/st-lucie-county-deputies-raid-close-arcade-accused-of-gambling/71302519007/ relating to recent enforcement by local law enforcement and agents of the Florida Gaming Control Commission (both last visited Jan. 23, 2024).
[22] See ch. 2021-268, Laws of Fla., (Implementation of 2021 Gaming Compact between the Seminole Tribe of Florida and the State of Florida); ch. 2021-269, Laws of Fla., (Gaming Enforcement), ch. 2021-270, Laws of Fla., (Public Records and Public Meetings), and 2021-271, Laws of Fla., (Gaming), as amended by ch. 2022-179, Laws of Fla., (Florida Gaming Control Commission). Conforming amendments are made in ch. 2022-7, Laws of Fla., (Reviser's Bill) and ch. 2023-8, Laws of Fla., (Reviser's Bill).
[23] Section 16.56(1)(a), F.S.
[24] Section 16.71, F.S.

(DPMW) which was transferred from the Department of Business and Professional Regulation (DBPR) effective July 1, 2022.[25]

The commission must do all of the following:[26]

- Exercise all of the regulatory and executive powers of the state with respect to gambling, including pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding state lottery games as authorized by the State Constitution.
- Establish procedures consistent with ch. 120, F.S., the Administrative Procedure Act, to ensure adequate due process in the exercise of the commission's regulatory and executive functions.
- Ensure that the laws of this state are not interpreted in any manner that expands the activities authorized in ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling).
- Review the rules and regulations promulgated by the Seminole Tribal Gaming Commission for the operation of sports betting and propose to the Seminole Tribe Gaming Commission any additional consumer protection measures it deems appropriate. The proposed consumer protection measures may include, but are not limited to, the types of advertising and marketing conducted for sports betting, the types of procedures implemented to prohibit underage persons from engaging in sports betting, and the types of information, materials, and procedures needed to assist patrons with compulsive or addictive gambling problems.
- Evaluate, as the state compliance agency or as the commission, information that is reported by sports governing bodies or other parties to the commission relating to:
  - Any abnormal betting activity or patterns that may indicate a concern about the integrity of a sports event or events;
  - Any other conduct with the potential to corrupt a betting outcome of a sports event for purposes of financial gain, including, but not limited to, match fixing; suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification; and
  - The use of data deemed unacceptable by the commission or the Seminole Tribal Gaming Commission.
- Provide reasonable notice to state and local law enforcement, the Seminole Tribal Gaming Commission, and any appropriate sports governing body of non-proprietary information that may warrant further investigation of nonproprietary information by such entities to ensure integrity of wagering activities in the state.
- Review any matter within the scope of the jurisdiction of the DPMW.
- Review the regulation of licensees, permitholders, or persons regulated by the DPMW and the procedures used by that division to implement and enforce the law.
- Review the procedures of the DPMW which are used to qualify applicants applying for a license, permit, or registration.

[25] *See* ch. 2021-269, s. 11, Laws of Fla., which delineates the transfer of the DPMW to the commission from the DBPR.
[26] Section 16.712, F.S. The commission also administers the Pari-mutuel Wagering Trust Fund. *See* s. 16.71(6), F.S.

- Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under ch. 24, F.S. (State Lotteries), part II of ch. 285, F.S. (Gaming Compact), ch. 546, F.S. (Amusement Facilities), ch. 550, F.S. (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S. (Gambling), and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.
- Refer criminal violations of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling) to the appropriate state attorney or to the Office of Statewide Prosecution, as applicable.
- Exercise all other powers and perform any other duties prescribed by the Legislature, and adopt rules to implement the above.

Commissioners

As set forth in s. 16.71, F.S., of the five commissioners appointed as members of the commission, at least one member must have at least 10 years of experience in law enforcement and criminal investigations, at least one member must be a certified public accountant licensed in this state with at least 10 years of experience in accounting and auditing, and at least one member must be an attorney admitted and authorized to practice law in this state for the preceding 10 years. All members serve four-year terms, but may not serve more than 12 years. As of the date of this analysis, there is one vacancy on the commission.

Division of Gaming Enforcement

Section 16.711, F.S., sets forth the duties of the Division of Gaming Enforcement (DGE) within the commission.[27] The DGE is a criminal justice agency, as defined in s. 943.045, F.S. The commissioners must appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE.[28]

The DGE director and all investigators employed by the DGE must meet the requirements for employment and appointment provided by s. 943.13, F.S., and must be certified as law enforcement officers, as defined in s. 943.10(1), F.S. The DGE director and such investigators must be designated law enforcement officers and must have the power to detect, apprehend, and arrest for any alleged violation of ch. 24, F.S., (State Lotteries), part II of ch. 285, F.S., (Gaming Compact), ch. 546, F.S., (Amusement Facilities), ch. 550, F.S., (Pari-mutuel Wagering), ch. 551, F.S., (Slot Machines), or ch. 849, F.S., (Gambling), or any rule adopted pursuant thereto, or any law of this state.[29]

Such law enforcement officers may enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any

[27] For a summary of DGE investigations and actions in Fiscal Year 2022-2023, s*ee* Annual Report, *supra* n. 11 at p.5.
[28] Section 16.711(2), F.S.
[29] Section 16.711(3), F.S.

necessary equipment, and such entry does not constitute a trespass. In any instance in which there is reason to believe that a violation has occurred, such officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring.[30]

Further, any such officer may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation. Investigators employed by the commission also have access to, and the right to inspect, premises licensed by the commission, to collect taxes and remit them to the officer entitled to them, and to examine the books and records of all persons licensed by the commission.[31]

The DGE and its investigators are specifically authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. The term "contraband" has the same meaning as the term "contraband article" in s. 932.701(2)(a)2., F.S.[32] The DGE is specifically authorized to store and test any contraband that is seized in accordance with the Florida Contraband Forfeiture Act and may authorize any of its staff to implement this provision. The authority of any other person authorized by law to seize contraband is not limited by these provisions.[33]

Section 16.711(5), F.S., requires the Florida Department of Law Enforcement (FDLE) to provide assistance in obtaining criminal history information relevant to investigations required for honest, secure, and exemplary gaming operations, and such other assistance as may be requested by the commission's executive director and agreed to by the FDLE's the executive director. Any other state agency, including the DBPR and the Department of Revenue, must, upon request, provide the commission with any information relevant to any investigation conducted as described above, and the commission must reimburse any agency for the actual cost of providing any such assistance.[34]

Regulation of Pari-mutuel Wagering and Associated Licenses

The commission regulates pari-mutuel wagering and has regulatory oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties.

Fantasy Sports Contests

The operation of fantasy sports activities in Florida has recently received significant publicity, much like the operation of internet cafes in recent years. Many states are now evaluating the status of fantasy gaming activities in their jurisdictions,[35] as there are millions of participants.[36]

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[30] *Id.*
[31] *Id.*
[32] Section 16.711(4), F.S.
[33] *Id.*
[34] Section 16.711(5), F.S.
[35] *See* Marc Edelman, *A Short Treatise on Fantasy Sports and the Law: How America Regulates its New National Pastime*, Journal of Sports & Entertainment Law, Harvard Law School Vol. 3 (Jan. 2012) available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907272 (last visited Jan. 23, 2024).
[36] According to the Fantasy Sports Trade Association, which states it represents the interests of 57 million fantasy sports players, fantasy sports leagues were originally referred to as "rotisserie leagues" with the development of Rotisserie League

A fantasy game typically has multiple players who select and manage imaginary teams whose players are actual professional sports players. Fantasy game players compete against one another in various formats, including weekly leagues among friends and colleagues, season-long leagues, and on-line contests (daily and weekly) entered by using the Internet through personal computers or mobile telephones and other communications devices. There are various financial arrangements among players and game operators.

Florida law does not specifically address fantasy contests. Section 849.14, F.S.,[37] provides that a person who wagers any "thing of value" upon the result of a contest of skill or endurance of human or beast, or who receives any money wagered, or who knowingly becomes the custodian of money or other thing of value that is wagered, is guilty of a second degree misdemeanor.[38] The commission has issued cease and desist correspondence to various companies operating fantasy contests in the state concerning possible violations of Florida's gambling laws. The letters have generated controversy, concern, and interest from contest operators, elected officials, and the Seminole Tribe of Florida, which has entered into gaming compacts with the state (as discussed below).[39] The legality of various forms of fantasy sports games and contests is being reviewed and addressed in a number of states.[40]

The State of Nevada has regulated gaming for more than 80 years, and its gaming control board was created by its legislature in 1955.[41] In 2015, the Office of the Nevada Attorney General provided the Nevada Gaming Control Board and the Nevada Gaming Commission the following informative summary about fantasy sports, player selection, and the types of simulated games being marketed to participants (referred to as owners in the Memorandum).[42]

> ***Description of Fantasy Sports Games***
>
> Fantasy sports are games where the participants, as ''owners,'' assemble ''simulated teams'' with rosters and/or lineups of actual players of a professional sport. These games are generally played over the Internet using computer or mobile software applications. Fantasy sports cover a number of actual professional sports leagues, including the NFL, the MLB, the NBA, the NHL, the MLS, NASCAR, as well as college sports such as NCAA football and basketball.

Baseball in 1980, by magazine writer/editor Daniel Okrent, who met and played it with friends at a New York City restaurant La Rotisserie Francaise. *See* https://thefsga.org/history/ (last visited Jan. 23, 2024).

[37] *See* Fla. AGO 91-03 (Jan. 7, 1991) *available at* https://www.myfloridalegal.com/ag-opinions/gambling-fantasy-sports-league (last visited Jan. 23, 2024).

[38] A conviction for a second degree misdemeanor may subject the violator to a definite term of imprisonment not exceeding 60 days, and a fine not exceeding $500. *See* ss. 775.082 and 775.083, F.S.

[39] *See* https://www.floridatrend.com/article/38854/questions-swirl-around-fantasy-sports (last visited Jan. 23, 2024).

[40] *See* State Regulators Take Closer Look At Fantasy Sports Operators (sportshandle.com) (last visited Jan. 23, 2024).

[41] *See* https://gaming.nv.gov/index.aspx?page=2 (last visited Jan. 21, 2024).

[42] See Memorandum from J. Brin Gibson, Bureau Chief of Gaming and Government Affairs, and Jetan D. Bhirud, Head of Complex Litigation, to A.G. Burnett, Chairman, Nevada Gaming Control Board; Terry Johnson, Member, Nevada Gaming Control Board; Shawn Reid, Member, Nevada Gaming Control Board (Oct. 16, 2015) (on file with the Senate Regulated Industries Committee).

Fantasy sports can be divided into two types: (1) traditional fantasy sports, which track player performance over the majority of a season, and (2) daily fantasy sports, which track player performance over a single game. The owners of these simulated teams compete against one another based on the statistical performance of actual players in actual games. The actual players' performance in specific sporting events is converted into ‘‘fantasy points'' such that each actual player is assigned a specific score. An owner will then receive a total score that is determined by compiling the individual scores of each player in the owner's lineup. Thus, although the owners select lineups, once the lineup has been selected------at least in the context of daily fantasy sports------the owners have basically no ability to control the outcome of the simulated games. [Memorandum footnote 2: Given that lineups on some sites do not "lock" until the start of each individual game, the owners have until the tipoff of each individual game to set each particular lineup spot.]

Specifically, the owners of the simulated teams have no ability to control how many points their simulated teams receive from an actual player's performance. The actual players in the actual games control their own performance. As a result, after an owner places a bet and sets a final lineup, the owner has no ability to influence the outcome of a simulated game. At that point, the owner waits to see what happens based upon the performance of the actual players selected.

Player Selection

The three most common methods of player selection in fantasy sports are (1) a snake draft; (2) an auction draft; and (3) a salary-cap draft. [Memorandum footnote omitted.] In a snake draft, owners take turns drafting actual players for their simulated teams. In an auction draft, each owner has a maximum budget to use to bid for players. Competing owners, however, cannot select the same actual players for their simulated teams as other owners. Daily fantasy sports do not generally utilize a snake draft or an auction draft.

In a salary-cap draft, just like in an auction draft, each owner has a maximum budget. Unlike in an auction draft, however, the owners do not bid against each other. Instead, each actual player has a set fantasy salary. Although (with a few exceptions) [Memorandum footnote 4: For example, most sites require owners to select actual players from at least three different actual teams.], the owners can select any actual player for their teams, the owners cannot exceed their maximum budget. In this format, generally speaking, competing owners can select the same actual players for their simulated teams as other owners.

Types of Simulated Games

Although there are many different types of simulated games offered across the different daily fantasy websites, the simulated games can generally be divided into (1) head-to-head; and (2) tournaments.

In head-to-head simulated games, one owner competes against another owner. The owner with the highest total score will win the entire payout pool.

Tournaments are simulated games that involve more than two owners.

Amendment 3 to the State Constitution (Voter Control of Gambling)

During the 2018 General Election, the electorate approved a constitutional amendment (Amendment 3, Voter Control of Gambling in Florida). The amendment is codified as Section 30 of Article X of the State Constitution.[43]

Amendment 3 requires a vote proposed by a citizen initiative to amend the State Constitution pursuant to Section 3 of Article XI of the State Constitution to authorize "casino gambling" in Florida. Casino gambling is defined in section (b) of Amendment 3 as:

- Any of the "types of games typically found in casinos" and that are:
  - Within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; and
  - In 25 [Code of Federal Regulations] (C.F.R.) s. 502.4 upon the adoption of the amendment and any that are added to such definition of Class III gaming in the future.

Fantasy sports contests are not typically found in a casino and are not Class III games, and therefore, are likely not impacted by Amendment 3.

Section (b) of Amendment 3 provides that casino gambling includes, but is not limited to, the following:

- Any house banking game, including but not limited to, card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games);
- Any player-banked game that simulates a house banking game, such as California blackjack;
- Casino games such as roulette, craps, and keno;
- Any slot machines as defined in 15 U.S.C. 1171(a)(1); and
- Any other game not authorized by Article X, section 15 [of the State Constitution, relating to state operated lotteries], whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing.

Section (b) of Amendment 3 also further defines "casino gambling" to include the following:

- Any electronic gambling devices;

[43] *See* the text of Amendment 3, now codified as art. X, s. 30, at http://www.leg.state.fl.us/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes&CFID=44933245&CFTOKEN=f39b1ca7cab71561-BE329BC7-5056-B837-1A6123F335C4849F#A10S30 (last visited Jan. 23, 2024).

- Simulated gambling devices;
- Video lottery devices;
- Internet sweepstakes devices; and
- Any other form of electronic or electromechanical facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under the Indian Gaming Regulatory Act.

Under Amendment 3, the term "casino gambling" does not include:

> …pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions.
>
> For the purposes of [Amendment 3], "gambling" and "gaming" are synonymous.

Additionally, Amendment 3 provides:

> Nothing [in Amendment 3] shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing [in Amendment 3] shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to [the Indian Gaming Regulatory Act].

By its terms, Amendment 3 became effective on November 6, 2018, is self-executing, and no legislative implementation is required. If any part of Amendment 3 is held invalid for any reason, the remaining portion(s) must be severed from the invalid portion and given "the fullest possible force and effect."

Gaming Compacts

Gaming compacts between states and Indian tribes are regulated by the Federal Indian Gaming Regulatory Act, s. 25 U.S.C. 2701, et seq., and ch. 285, part II, F.S. The State of Florida (state) entered into a gaming compact with the Seminole Tribe of Florida (Seminole Tribe) on April 7, 2010 (the 2010 Compact). In Chapter 2021-268, L.O.F., the Legislature ratified a new Gaming Compact between the Seminole Tribe and the state, which was executed by Governor Ron DeSantis and the Seminole Tribe on April 23, 2021, as amended on May 17, 2021 (the 2021 Compact). The 2021 Compact was approved by the United States Department of the Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register on August 11, 2021.[44] The 2021 Compact supersedes the 2010 Compact, and has a term of 30 years beginning August 6, 2021.

The 2010 Compact, the 2021 Compact, and any future gaming compact between those parties, are not impacted by Amendment 3, as Amendment 3 expressly exempts such compacts and provides that the amendment does not limit the ability of the state and Native American tribes to:

- Negotiate gaming compacts for the conduct of casino gambling on tribal lands; or

[44] Fed. Register, Vol. 86, No. 153 at 44037.

- Affect any existing gambling on tribal lands pursuant to existing compacts.[45]

Pending Litigation

The state received payments due under the 2021 Compact beginning October 2021. The U.S. District Court for the District of Columbia set aside the federal approval of the 2021 Compact on November 22, 2021. The Seminole Tribe continued making revenue sharing payments to the state through February 2022, and then discontinued all payments. Between October 2021 and February 2022, the state received five payments of $37.5 million, totaling $187.5 million.[46] Revenue sharing payments from the Seminole Tribe to the state resumed in January 2024.[47]

Litigation relating to the legality of the 2021 Compact is currently pending in the Florida Supreme Court,[48] challenging the off-reservation mobile sports betting authorized in the 2021 Compact and in Florida law[49] as a violation of the Florida Constitution (specifically Amendment 3 adopted in 2018, now Article X, Section 30 to the Florida Constitution, as discussed above). The challenged actions include execution and ratification of the 2021 Compact and enactment of implementing legislation, as it relates to sports betting.

In addition, there is a proceeding pending in the U.S. Supreme Court challenging the legality of the 2021 Compact, but that court has not yet determined to accept the case.[50]

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) Did Not Legalize Fantasy Sports

The Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA)[51] was signed into law by President George W. Bush on October 13, 2006.[52] Under this act, internet gambling is not determined to be legal in a state, nor illegal. Instead, UIGEA targets financial institutions in an attempt to prevent the flow of money from an individual to an internet gaming company. Congress found that enforcement of gambling laws through new mechanisms "are necessary

[45] The existing gaming compacts include the 2010 Gaming Compact and the 2021 Gaming Compact with the Seminole Tribe; the latter gaming compact is the subject of pending litigation as discussed in this analysis. The Miccosukee Tribe of Indians of Florida operates a Class II gaming facility in Florida. The Poarch Band of Creek Indians has a one acre tract of land held in trust by the United States Department of the Interior north of Pensacola, Florida.
[46] *See* the review of the Indian Gaming Revenues by the Revenue Estimating Conference/Impact Conference at http://www.edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf (last visited Jan. 23, 2024). The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. At the request of the legislative committees or other members of an estimating conference, EDR conducts impact assessments of proposed policy changes. Often, EDR's estimates are incorporated in the committee bill analysis or fiscal note. In some cases, committees will request EDR to take a particular proposal to a consensus estimating conference to obtain an impact estimate that is formally agreed to by both houses of the Legislature and by the Governor's Office.
[47] The resumption of Indian Gaming Revenues will be reviewed by the Revenue Estimating Conference/Impact Conference.
[48] *West Flagler Associates, et al., v. Ron D. DeSantis, et al.*, SC 2023-1333, Petition for Writ of Quo Warranto.
[49] See s. 285.710(13(b)7., F.S.
[50] *See* Order in Pending Case, No. 23A315 (Oct. 25, 2023) in *West Flagler Associates, Ltd., et al. v. Haaland*, Application for Stay Denied with Statement of Justice Kavanaugh, 601 U.S. ___ (2023), available at 23A315 West Flagler Associates, Ltd. v. Haaland (10/25/2023) (supremecourt.gov) (both last visited Jan. 23, 2024).
[51] 31 U.S.C. ss. 5361-5366.
[52] The provisions of UIGEA were adopted in Conference Committee as an amendment to H.R. 4954 by Representative Daniel E. Lungren (CA-3), "The SAFE Ports Act of 2006."

because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses state or national borders.”[53]

“Unlawful internet gambling” prohibited by UIGEA includes the placement, receipt, or transmission of certain bets or wagers.[54] “Bet or wager” is defined by 31 U.S.C. sec. 5362 as:
(1) Bet or wager.—The term “bet or wager”—
(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game subject to chance, upon an agreement or understanding that the person or another person will receive something of value in the event of a certain outcome;
(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);
(C) includes any scheme of a type described in section 3702 of title 28 [Unlawful Sports Gambling];
(D) includes any instructions or information pertaining to the establishment or movement of funds by the bettor or customer in, to, or from an account with the business of betting or wagering.

It does not include securities trading, commodity trading (including some trading exclusions), over the counter derivatives, indemnity contracts, insurance contracts, and insured deposits.[55]
Also excluded is:
- Participation in any game or contest in which participants do not stake or risk anything of value other than—
  - Personal efforts of the participants in playing the game or contest or obtaining access to the Internet; or
  - Points or credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor.[56]

The definition of the term “bet or wager” also specifically excludes any fantasy game or contest in which a fantasy team is not based on the current membership of a professional or amateur sports team, and:
- All prizes and awards are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of fees by the participants;
- Prize amounts are not based on the number of participants or the amount of entry fees;
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals or athletes in multiple “real-world sporting or other events;” and
- No winning outcome is based:
  - On the score, point-spread, or any performance or performances of any single “real-world” team or combination of teams; or

[53] 31 U.S.C. s. 5361(a)(4).
[54] 31 U.S.C. s. 5362(10).
[55] 31 U.S.C. s. 5362(1)(E)(i)-(vii)
[56] 31 U.S.C. s. 5362(1)(E)(viii)

- Solely on any single performance of an individual athlete in any single "real-world sporting or other event."[57]

The "unlawful Internet gambling" means to place, receive, or otherwise knowingly transmit a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.[58]

While UIGEA excludes bets or wagers of participants in certain fantasy sports games and contests,[59] fantasy sports contests and activities in Florida are not authorized as a result of such exclusion. UIGEA expressly states that none of its provisions "shall be construed as altering, limiting, or extending any Federal or State law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States."[60]

III. Effect of Proposed Changes:

Section 1 creates the short title the "Fantasy Sports Contest Amusement Act (act)" for ss. 546.1 through 546.18, F.S. (Sections 1 through 8).

Section 2 creates s. 542.12, F.S., to state the legislative purpose and intent for the act, which is to "ensure public confidence in the integrity of fantasy sports contests and contest operators" through the regulation of contest operators and participants and the enactment of consumer protections related to fantasy sports contests. The bill includes a legislative finding that fantasy sports contests, as defined in the act, involve the skill of contest participants.

Section 3 creates s. 546.13, F.S., to provide definitions for the terms used in the act and the requirements for such contests to comply with the act. A "fantasy sports contest" is a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization, and which meets the following requirements:

- Contest operators and their employees and agents may not be participants in a contest;
- Prizes and awards must be established and disclosed by a contest operator or a noncommercial operator to the participants before a game or a contest and the value of such awards is not determined by the number of participants in the contest or the amount of fees paid by those participants;
- All winning outcomes must reflect the relative knowledge and skill of participants and be determined predominantly by accumulated statistical results of the performances of individuals, including athletes in in the case of sporting events; and
- No winning outcome is based on the score, point spread, the performance of any single team or combination of teams; solely on any single performance of an individual athlete or player in a single event; on pari-mutuel events; on poker or other card games; or on performances of those participating in collegiate, high school, or youth sporting events; and

[57] *See* 31 U.S.C. s. 5362(1)(E)(ix).
[58] 31 U.S.C. s. 5362(10)
[59] *Id*.
[60] 31 U.S.C. s. 5361(b).

- Casino graphics, themes, or titles, such as slot machine symbols, cards, dice, craps, roulette, or lotto, may not be displayed or depicted.

The term "entry fee" is defined in the bill to mean the cash or cash equivalent amount that a person is required to pay to a contest operator or noncommercial contest operator to participate in a fantasy sports contest, and the term "contest participant" means a person who pays an entry fee in order to participate.

The bill authorizes fantasy sports contests in which participants, who must be 21 years of age or older, pay an entry fee to a person or entity that offers such contests for a cash prize to members of the public, defined as a "contest operator;" however, the term does not include a noncommercial operator in Florida. The term "noncommercial operator" means an individual who organizes and conducts fantasy sports contests for participants 21 years of age or older who pay an entry fee for the contest. A noncommercial contest operator must pay all entry fees to participants as prizes, and may not pay fantasy sports contest prize monies exceeding $1,500 per season or $10,000 annually.

Under the bill, the term "commission" means the Florida Gaming Control Commission (commission).

Section 4 creates s. 546.14, F.S., to require the commission to enforce and administer the act.

The commission may:
- Conduct investigations and monitor the operation and play of fantasy sports contests;
- Review the books, accounts, and records of current and former contest operators;
- Deny, suspend, or revoke licenses for any violation of state law or rule;
- Take testimony, issue witness summonses and subpoenas for matters in its jurisdiction;
- Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with the consumer protection procedures enacted pursuant to the act;
- Investigate any licensed or unlicensed persons or entities when they are:
  - Advertising as offering or providing or are engaged in conducting a fantasy sports contest which requires licensure under the act; or
  - Engaged in activities which do not comply with or are prohibited by the act; and
- Issue orders to licensed or unlicensed persons or entities, or to contest operators or noncommercial contest operators, to stop engaging in activities that require licensure or are prohibited by the act, or to seek an injunction or take other appropriate action to enforce the act.

The commission must:
- Revoke a contest operator's license if the contest operator offers fantasy sports contests in violation of the prohibition contained in s. 546.13, F.S., against betting on sports or pari-mutuel events, on poker or other card games, or on collegiate, high school, or youth sporting events; and
- Adopt rules to implement and administer the act.

Section 5 creates s. 546.15, F.S., to require licensure of contest operators by the commission to conduct fantasy sports contests in Florida. Licenses are effective for one year after issuance and must be renewed annually. Applications for licensure must include:

- The full name of the applicant; for a corporate applicant, the name of the state of incorporation, the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity in the corporation; and for an applicant that is another type of business entity, the names and addresses of:
  - Each principal, partner, or shareholder who holds 15 percent or more equity in the entity; and
  - Any person who individually or in concert with a relative beneficially owns or controls, or has the power to vote or cause the vote of, 15 percent or more equity. For the purposes of the act, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.
- The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those otherwise provided, unless the securities of the corporation or entity are registered pursuant to the federal Securities Exchange Act of 1934, and either:
- The applicant files reports with the United States Securities and Exchange Commission as required by section 13 of that act; or
- The securities of the corporation or entity are regularly traded on an established securities market in the United States.
- The estimated number of fantasy sports contests to be conducted by the applicant annually;
- A statement of the assets and liabilities of the applicant;
- The names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor, if required by the commission;
- For each individual listed in the application, a full set of fingerprints to be submitted to the commission or to a vendor, entity, or agency authorized under s. 943.053(13), F.S., which must be:
  - Forwarded to the Department of Law Enforcement (FDLE) for state processing;
  - Forwarded to the Federal Bureau of Investigation by the FDLE for national processing.
  - Retained by the FDLE as provided in s. 943.05(2)(g) and (h), F.S.; and
  - Enrolled in the Federal Bureau of Investigation's national retained print arrest notification program when the FDLE begins participation in that program. Any arrest record identified must be reported by the FDLE to the commission.
- For each foreign national, such documents as necessary to allow the commission to conduct criminal history records checks in the individual's home country; the applicant must pay the full cost of processing fingerprints and required documentation.

The application for renewal of a license issued pursuant to the act must contain all revisions to the information submitted in the prior year's application which are necessary to maintain such information as both accurate and current, and the applicant must attest that any revisions do not affect the applicant's qualifications for license renewal.

Upon determination by the commission that an application for renewal is complete and qualifications have been met, including payment of the renewal fee, the fantasy sports contests license must be renewed annually.

Under the bill, a person or entity is not eligible for licensure as a contest operator or for licensure renewal if the commission determines after investigation that an individual required to be listed in the application, is not of good moral character or is found to have been convicted of a felony in Florida, any offense in another jurisdiction which would be considered a felony if committed in Florida, or a felony under the laws of the United States. The term “convicted” means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

In addition, the bill provides the license of a contest operator is automatically suspended 30 calendar days after entry of a final order imposing an administrative fine against the contest operator, if the administrative fine has not been paid. The license of a contest operator may not be renewed, and an application for licensure as a contest operator may not be approved, if the contest operator or an applicant is liable for an outstanding administrative fine imposed under the act. A contest operator’s license remains suspended until the administrative fine is paid. However, a contest operator’s license may not be suspended and an application for licensure may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

Changes in ownership of or interest in a fantasy sports contests license of five percent or more of the stock or other evidence of ownership or equity in the contest operator must be approved by the commission before such change, unless the owner is an existing owner of that license who was previously approved by the commission. Changes in ownership of or interest in a fantasy sports contests license of less than five percent must be reported to the commission within 20 days after the change. The commission may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest. This provision is similar to s. 550.054(12), F.S., relating to changes in ownership or interest in pari-mutuel permits.

Section 6 creates s. 546.16, F.S., relating to consumer protections that require a contest operator to implement fantasy sports contests procedures that:

- Prevent the contest operator's employees, their relatives, or persons living in the same household as the employees, from competing in a fantasy sports contest in which a cash prize is awarded. The term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister;
- Allow a commercial contest operator to offer fantasy sports contests to its employees, if the employees are the sole participants in the contest;
- Prevent the contest operator from being a contest participant in a fantasy sports contest that the contest operator offers;

- Prevent the contest operator's employees or agents from sharing with a third party confidential[61] information that could affect fantasy sports contest play until the information has been made publicly available;
- Verify that contest participants are 21 years of age or older;
- Restrict an individual who is a player, a game official, or other participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual’s real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant;
- Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest;
- Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries; and
- Segregate contest participants’ funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants’ accounts for the benefit and protection of authorized contest participants’ funds held in fantasy sports contest accounts.

A contest operator must annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with the act, and submit the results of the independent audit to the commission no later than 90 days after the end of each annual licensing period.

The bill requires the data source used by contest operators to determine fantasy sports contest results to be complete, accurate, reliable, and appropriate to settle the outcome of the fantasy sports contests for which they are used. This requirement does not apply to noncommercial contest operators.

Section 7 creates s. 546.17, F.S., to require each contest operator to keep and maintain daily records of its operations and to maintain such records for at least three years. The records must sufficiently detail all financial transactions required to determine compliance with the requirements of the act and must be available for audit and inspection by the commission or other law enforcement agencies during the contest operator’s regular business hours. The commission must adopt rules to implement s. 547.17, F.S.

Section 8 creates s. 546.18, F.S., relating to penalties for violations of the act. A contest operator, or its employee or agent, who violates the act is subject to an administrative fine, not to exceed $5,000 for each violation and not to exceed $100,000 in the aggregate, for deposit to the state’s general revenue fund. An action to recover such penalties may be brought by the commission or the Department of Legal Affairs in circuit court in the name and on behalf of the state.

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[61] Under the bill, the term “confidential information” means “information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person’s employment with, or work as an agent of, a contest operator.”

However, the penalty provisions do not apply to violations committed by a contest operator which occurred prior to the issuance of a license under the act if the contest operator applies for a license within 90 days after the date the commission begins accepting applications, and receives a license within 240 days after such date.

Under the bill, fantasy sports contests conducted by a contest operator or noncommercial contest operator in compliance with all fantasy sports contest requirements are not subject to certain gambling laws[62] set forth in ch. 849, F.S., relating to Gambling.

Sections 9, **10, 11,** and **12** amend provisions in ss. 16.71, 16.712, 16.713, and 16.715, F.S., relating to the Florida Gaming Control Commission (commission). The commission must receive and review violations of ch. 546, F.S., (Amusement Facilities), which includes fantasy sports contests, and prohibit certain commission candidates, members, employees, or former commissioners or employees from holding a license issued under ch. 546, F.S., prior to, during, and after appointment or employment with the commission, for the time frames described in those provisions.

Section 13 amends s. 849.142, F.S., relating to activities exempt from certain gambling laws[63] to add fantasy sports contests conducted in accordance with ch. 546, F.S., as an exempted activity; similar exemptions in current law, provided the activity is conducted pursuant to applicable Florida law, include pari-mutuel wagering, slot machine gaming, the operation of cardrooms, and bingo games.

Section 14 provides the bill takes effect July 1, 2024.

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.

[62] *See* ss. 849.01, 849.08, 849.09, 849.11, 849.14, and 849.25, F.S., relating to various activities that are prohibited by or must comply with Florida law.
[63] *Id*.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who act as fantasy sports contest operators will be required to meet various requirements imposed by the bill, such as auditing and consumer protection measures, that will have associated costs.

C. Government Sector Impact:

According to the Florida Gaming Control Commission (commission), the impact on state revenues and expenditures is indeterminate, and there is no impact expected on local government revenues and expenditures.[64] The commission notes that the number of applicants for licenses "may requires additional FTEs and expenses to carry out the regulatory responsibilities" set forth in the bill.[65]

The commission must implement the provisions of the bill and adopt forms and procedures for the licensing of fantasy sports contest operators.

The Florida Department of Law Enforcement (FDLE) notes that the impact of the bill does not necessitate additional FTE or other resources, but "this bill, in combination with additional criminal history record check bills, could rise to the level requiring additional staffing and other resources."[66]

The Revenue Estimating Conference has not reviewed the fiscal impact of this bill.

VI. Technical Deficiencies:

None.

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[64] *See* Florida Gaming Control Commission, *2024 Agency Legislative Bill Analysis for SB 1568* at 7 (Jan. 19, 2024) (on file with the Senate Committee on Regulated Industries).
[65] *Id*.
[66] *See* Florida Department of Law Enforcement (FDLE) *2024 Agency Legislative Bill Analysis for SB 1568* at 5 (Jan. 12, 2024) (on file with the Senate Committee on Regulated Industries).

VII. Related Issues:

The commission notes concerns with provisions in the bill relating to license application deadlines, clarity of defined terms, and the procedure for automatic suspension of licenses for failure to pay administrative fines.[67]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.71, 16.712, 16.713, and 16.715.

This bill creates the following sections of the Florida Statutes: 546.11, 546.12, 546.13, 546.14, 546.15, 546.16, 546.17, 546.18, and 849.142.

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.

[67] *Id*. at 9.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2024	.	
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The Committee on Fiscal Policy (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 546.11, Florida Statutes, is created to read:

<u>546.11 Short title.—Sections 546.11-546.19 may be cited as the "Fantasy Sports Contest Amusement Act."</u>

Section 2. Section 546.12, Florida Statutes, is created to read:

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546.12 Legislative intent; findings.—It is the intent of the Legislature to ensure public confidence in the integrity of fantasy sports contests and contest operators. This act is designed to regulate the contest operators and individuals who participate in such contests and to enact consumer protections related to fantasy sports contests. Furthermore, the Legislature finds that fantasy sports contests, as that term is defined in s. 546.13, involve the skill between contest participants.

Section 3. Section 546.13, Florida Statutes, is created to read:

546.13 Definitions.—As used in ss. 546.11-546.19, the term:

(1) “Act” means the Fantasy Sports Contest Amusement Act, ss. 546.11-546.19.

(2) “Commission” means the Florida Gaming Control Commission.

(3) “Confidential information” means information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person’s employment with, or work as an agent of, a contest operator.

(4) “Contest operator” means a person or an entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state.

(5) “Contest participant” means a person who pays an entry fee for the ability to participate in a fantasy or simulation sports game or contest offered by a contest operator or noncommercial contest operator.

(6) “Entry fee” means the cash or cash equivalent amount that a person is required to pay to a contest operator or

noncommercial contest operator to participate in a fantasy sports contest.

(7) “Fantasy sports contest” means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and which meets each of the following requirements:

(a) All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest, and their value is not determined by the number of contest participants or the amount of any fees paid by those contest participants.

(b) All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

(c) No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams; solely on any single performance of an individual athlete or player in a single actual event; on a pari-mutuel event, as the term “pari-mutuel” is defined in s. 550.002; on a game of poker or other card game; or on the performances of participants in collegiate, high school, or youth sporting events.

(d) No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.

(8) “Noncommercial contest operator” means a natural person who organizes and conducts a fantasy or simulation sports game in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and distributed by such natural person do not exceed $1,500 per season or a total of $10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes.

Section 4. Section 546.14, Florida Statutes, is created to read:

546.14 Enforcement and administration; rulemaking.—

(1) The commission shall enforce and administer this act.

(2) The commission may:

(a) Conduct investigations and monitor the operation and play of fantasy sports contests.

(b) Review the books, accounts, and records of any current or former contest operator.

(c) Deny, suspend, or revoke any license under this act for any violation of state law or rule.

(d) Take testimony, issue summonses and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(e) Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with consumer protection procedures enacted pursuant to s. 546.16.

(f) Investigate any licensed or unlicensed person or entity when such person or entity is advertising as offering or

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providing, or is engaged in conducting, a fantasy sports contest that requires licensure under this act or when a contest operator or noncommercial contest operator is engaged in activities that do not comply with or are prohibited by this act. The commission may issue an order to such licensed or unlicensed person or entity or contest operator or noncommercial contest operator to cease and desist the further conduct of such activities, may seek an injunction, or may take other appropriate action to enforce this act.

(3) The commission must revoke a contest operator's license if the contest operator knowingly and willfully offers fantasy sports contests that violate s. 546.13(7)(c).

(4) The commission shall adopt rules to implement and administer this act.

Section 5. Section 546.15, Florida Statutes, is created to read:

546.15 Licensing; renewal.—

(1) A contest operator must be licensed by the commission to conduct fantasy sports contests within this state. Licenses are effective for 1 year after issuance and must be renewed annually. Applications for a license as a contest operator are exempt from the 90-day licensing requirement of s. 120.60. Within 120 days after receipt of a complete application, the commission shall grant or deny the permit. A completed application that is not acted upon within 120 days after receipt is deemed approved, and the commission shall grant the license.

(2) The license application must include:

(a) The full name of the applicant.

(b) If the applicant is a corporation, the name of the

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state in which the applicant is incorporated and the names and addresses of the officers, directors, and shareholders who hold 15 percent or more equity.

(c) If the applicant is a business entity other than a corporation, the names and addresses of each principal, partner, or shareholder who holds 15 percent or more equity, and any person who individually or in concert with a relative beneficially owns or controls, or has the power to vote or cause the vote of, 15 percent or more equity. For the purposes of this act, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(d) The names and addresses of the ultimate equitable owners of the corporation or other business entity if different from those provided under paragraph (b) or paragraph (c), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and either:

1. The corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act; or

2. The securities of the corporation or entity are regularly traded on an established securities market in the United States.

As used in this section, the term “ultimate equitable owner”

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means a natural person who, directly or indirectly, owns or controls 5 percent or more of an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such person owns or controls such ownership through one or more natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(e) The estimated number of fantasy sports contests to be conducted by the applicant annually.

(f) A statement of the assets and liabilities of the applicant.

(g) If required by the commission, the names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor.

(h) For each individual listed in the application pursuant to paragraph (a), paragraph (b), paragraph (c), or paragraph (d), a full set of fingerprints, to be submitted to the commission or to a vendor, an entity, or an agency authorized under s. 943.053(13).

1. The commission, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

2. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph must be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and

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(h) and, when the Department of Law Enforcement begins participation in the program, must be enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. The Department of Law Enforcement shall report to the commission any arrest record identified.

(i) For each foreign national, such documents as are necessary to allow the commission to conduct criminal history records checks in the individual's home country. The applicant must pay the full cost of processing fingerprints and required documentation.

(3) The application for renewal must contain all revisions to the information submitted in the prior year's application which are necessary to maintain such information as both accurate and current.

(4) The applicant for renewal must attest that any revisions do not affect the applicant's qualifications for license renewal.

(5) Upon determination by the commission that the application for renewal is complete and qualifications have been met, including payment of the renewal fee, the fantasy sports contests license must be renewed annually.

(6) A person or an entity is not eligible for licensure as a contest operator or for licensure renewal if an individual required to be listed pursuant to paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), or paragraph (2)(d) is determined by the commission, after investigation, not to be of good moral character or is found to have been convicted of a felony in this state, any offense in another jurisdiction which would be considered a felony if committed in this state, or a felony

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under the laws of the United States. As used in this subsection, the term “convicted” means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(7) The commission, notwithstanding chapter 120, may summarily suspend the license of a contest operator if the contest operator fails to pay any administrative fine imposed by entry of a final order by the commission within 30 calendar days of the date of the final order, unless a notice of appeal of such final order has been filed and is pending. Subsequent to the conclusion of any such appeal, the license of a contest operator may not be renewed, and an application for licensure as a contest operator may not be approved, if the contest operator or the applicant for licensure as a contest operator is liable for an outstanding administrative fine imposed under this act.

(8) Changes in ownership of or interest in a fantasy sports contests license of 5 percent or more of the stock or other evidence of ownership or equity in the contest operator must be approved by the commission before such change, unless the owner is an existing owner of that license who was previously approved by the commission. Changes in ownership of or interest in a fantasy sports contests license of less than 5 percent must be reported to the commission within 20 days after the change. The commission may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest.

Section 6. Section 546.16, Florida Statutes, is created to read:

546.16 Consumer protection.—

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(1) A contest operator shall implement procedures for fantasy sports contests which:

(a) Prevent its employees, their relatives, or persons living in the same household as the employees from competing in a fantasy sports contest in which a cash prize is awarded. However, a contest operator may offer to its employees fantasy sports contests in which the employees are the sole contest participants. For the purposes of this paragraph, the term "relative" means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) Prohibit the contest operator, its employees, or its agents from competing against contest participants or being a contest participant in a fantasy sports contest that the contest operator offers.

(c) Prevent its employees or agents from sharing with a third party confidential information that could affect fantasy sports contest play, until the information has been made publicly available.

(d) Verify that contest participants are 21 years of age or older.

(e) Restrict an individual who is a player, a game official, or other participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated

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statistical results of the sport or competition in which he or she is a player, game official, or other participant.

(f) Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest.

(g) Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent contest participants from submitting more than the allowable number of entries.

(h) Segregate contest participants’ funds from operational funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants’ accounts for the benefit and protection of authorized contest participants’ funds held in fantasy sports contest accounts.

(2)(a) A contest operator shall annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with this act. The contest operator shall submit the results of the independent audit to the commission no later than 120 days after the end of each annual licensing period.

(b) Any data source and the corresponding data to determine the results of all fantasy sports contests offered by contest operators, other than noncommercial contest operators, must be complete, accurate, reliable, and appropriate to settle the

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outcome of the fantasy sports contests for which they are used.

Section 7. Section 546.17, Florida Statutes, is created to read:

546.17 Records and reports.—Each contest operator shall keep and maintain daily records of its operations and shall maintain such records for at least 3 years. The records must sufficiently detail all financial transactions required to determine compliance with this act and must be available for audit and inspection by the commission or other law enforcement agencies during the contest operator's regular business hours. The commission shall adopt rules to implement this section.

Section 8. Section 546.18, Florida Statutes, is created to read:

546.18 Prohibitions.—

(1) As used in this section, the term:

(a) "Proposition selection" means a contest participant choosing whether one or more identified instances or statistical achievements within a sporting event, competition, or contest will or will not occur, be achieved, or be surpassed, or engaging in any other in-play wagering in which a contest participant wagers on a specific outcome or combinations of outcomes within such sporting event, competition, or contest.

(b) "Sports betting" means wagering on any past or future professional sport or athletic event, competition, or contest; any Olympic or international sports competition event; any collegiate sport or athletic event; any motor vehicle race; or any portion of any of the foregoing, including, but not limited to, the individual performance statistics of an athlete or other individual participant in any event or combination of events, or

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any other in-play wagering with respect to any such sporting event, competition, or contest.

(2) A contest operator may not offer a fantasy sports contest that includes any of the following:

(a) A contest participant making a proposition selection or having the effect of mimicking a proposition selection.

(b) Any fantasy sports contest in which a contest participant competes against the contest operator.

(c) A selection or assembly of a fantasy or simulation sports team which does not involve the knowledge and skill of a contest participant, including, but not limited to, any of the following:

1. Auto draft functionality, except for a fantasy sports contest in which a contest participant is required to exert knowledge and skill to rank, prioritize, or queue athletes before the draft or to assemble one or more fantasy or simulation sports teams from a pool of athletes drafted by a contest participant;

2. A contest participant selecting a fantasy or simulation sports team preselected by a contest operator; or

3. Any other means of fantasy or simulation sports team selection or assembly that does not involve the input or control of a contest participant.

(d) Any fantasy sports contests that involve, result in, or have the effect of mimicking sports betting.

(e) Any fantasy sports contest in which any statistical results of the performance of any individual athletes that determine the outcome of the fantasy or simulation sports game have been partially or completely determined and are publicly

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known at the time any entry fee from any contest participant is to be collected.

(f) Any fantasy sports contests prohibited by the commission or by state or federal law.

(3) A fantasy sports contest operator may not offer a fantasy sports contest to any person located on Indian lands in Florida that are regulated under the Indian Gaming Regulatory Act defined in s. 285.710 and codified at 25 U.S.C., ss. 2701 et seq. and 18 U.S.C., ss. 1166-1168. For the purposes of identifying Indian lands, the commission may, but is not required to, provide descriptions of such Indian lands to a fantasy contest operator seeking to operate in this state.

Section 9. Section 546.19, Florida Statutes, is created to read:

546.19 Penalties; applicability; exemption.—

(1)(a) Except as provided in paragraph (b), a contest operator who knowingly and willfully violates this act is subject to an administrative fine not to exceed $25,000 for each violation and not to exceed $5,000,000 in the aggregate. For other violations of this act, a contest operator or an employee or agent thereof is subject to an administrative fine not to exceed $5,000 for each day of the violation and not to exceed $100,000 in the aggregate. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund. An action to recover such penalties may be brought by the commission or the Department of Legal Affairs in the name and on behalf of the state.

(b) A contest operator, or an employee or agent thereof, who knowingly violates s. 546.18 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) The penalty provisions established in this subsection do not apply to violations committed by a contest operator which occurred before the issuance of a license under this act if the contest operator applies for a license within 90 days after the date the commission begins accepting applications and receives a license within 240 days after such date.

(2) Any person, other than a person who is a noncommercial contest operator as defined in this act, who operates a fantasy sports contest without a valid license issued as provided in this act commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) The commission, any state attorney, the statewide prosecutor, or the Attorney General may seek a temporary or permanent injunction restraining further violation of this section, and such injunction shall be issued without bond.

Section 10. Paragraph (b) of subsection (3) of section 16.71, Florida Statutes, is amended to read:

16.71 Florida Gaming Control Commission; creation; meetings; membership.—

(3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

(b) The Governor may not solicit or request any nominations, recommendations, or communications about potential candidates for appointment to the commission from:

1. Any person that holds a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; an officer, official, or employee of such

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permitholder or licensee; or an ultimate equitable owner, as defined in s. 546.15(2) or s. 550.002(37), as applicable, of such permitholder or licensee;

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or an ultimate equitable owner, as defined in s. 546.15(2) or s. 550.002(37), as applicable, of such entity; or

3. Any registered lobbyist for the executive or legislative branch who represents any person or entity identified in subparagraph 1. or subparagraph 2.

Section 11. Paragraph (i) of subsection (1) of section 16.712, Florida Statutes, is amended to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.—

(1) The commission shall do all of the following:

(i) Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849 and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.

Section 12. Paragraph (d) of subsection (1) and paragraph (a) of subsection (2) of section 16.713, Florida Statutes, are

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amended to read:

16.713 Florida Gaming Control Commission; appointment and employment restrictions.—

(1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—The following persons are ineligible for appointment to the commission:

(d) A person who has had a license or permit issued under chapter 546, chapter 550, chapter 551, or chapter 849 or a gaming license issued by any other jurisdiction denied, suspended, or revoked.

(2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE COMMISSION.—

(a) A person may not, for the 2 years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission:

1. Hold a permit or license issued under chapter 550 or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 546.15(2) or s. 550.002(37), as applicable, of such permitholder or licensee;

2. Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an ultimate equitable owner, as defined in s. 546.15(2) or s. 550.002(37), as applicable, of such entity;

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3. Be a registered lobbyist for the executive or legislative branch, except while a commissioner or employee of the commission when officially representing the commission or unless the person registered as a lobbyist for the executive or legislative branch while employed by a state agency as defined in s. 110.107 during the normal course of his or her employment with such agency and he or she has not lobbied on behalf of any entity other than a state agency during the 2 years immediately preceding the date of his or her appointment to or employment with the commission; or

4. Be a bingo game operator or an employee of a bingo game operator.

For the purposes of this subsection, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Section 13. Paragraphs (b) and (c) of subsection (2) of section 16.715, Florida Statutes, are amended to read:

16.715 Florida Gaming Control Commission standards of conduct; ex parte communications.—

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(b) A commissioner may not, for the 2 years immediately following the date of resignation or termination from the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849;

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be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in <u>s. 546.15(2) or</u> s. 550.002(37), <u>as applicable,</u> of such permitholder or licensee;

2. Accept employment by or compensation from a business entity that, directly or indirectly, owns or controls a person regulated by the commission; from a person regulated by the commission; from a business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member’s resignation or termination of service on the commission; or

3. Be a bingo game operator or an employee of a bingo game operator.

(c) A person employed by the commission may not, for the 2 years immediately following the date of termination or resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under <u>chapter 546,</u> chapter 551<u>,</u> or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in <u>s. 546.15(2) or</u> s. 550.002(37), <u>as applicable,</u> of such permitholder or licensee; or

2. Be a bingo game operator or an employee of a bingo game operator.

Section 14. Subsection (7) is added to section 849.142, Florida Statutes, to read:

849.142 Exempted activities.—Sections 849.01, 849.08,

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849.09, 849.11, 849.14, and 849.25 do not apply to participation in or the conduct of any of the following activities:

(7) Fantasy sports contests conducted pursuant to chapter 546.

Section 15. This act shall take effect July 1, 2024.

================= 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 Fantasy Sports Contest Amusement Act; creating s. 546.12, F.S.; providing legislative findings and intent; creating s. 546.13, F.S.; defining terms; creating s. 546.14, F.S.; requiring the Florida Gaming Control Commission to enforce and administer the act; authorizing the commission to take certain actions; requiring the commission to revoke a contest operator’s license under certain circumstances; requiring the commission to adopt rules; creating s. 546.15, F.S.; providing application requirements for fantasy sports contest operator licenses; exempting such applications from a specified requirement; providing that specified persons or entities are not eligible for licensure under certain circumstances; defining terms; specifying that a contest operator’s license is suspended under certain circumstances; providing an exception; requiring that certain changes in ownership

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or interest be approved by the commission; requiring contest operators to report to the commission certain changes in ownership or interest; authorizing the commission to conduct investigations; creating s. 546.16, F.S.; requiring a contest operator to implement specified consumer protection procedures; defining the term “relative”; requiring a contest operator to annually contract with a third party to perform an independent audit; requiring a contest operator to submit the audit results to the commission within a certain timeframe; requiring a contest operator to use data sources that meet specified requirements; creating s. 546.17, F.S.; requiring contest operators to keep and maintain certain records for a specified period; providing a requirement for such records; requiring that such records be available for audit and inspection; requiring the commission to adopt rules; creating s. 546.18, F.S.; defining terms; prohibiting contest operators from offering certain fantasy sports contests; creating s. 546.19, F.S.; providing civil penalties; providing applicability; providing criminal penalties for certain persons who offer or operate a fantasy sports contest in violation of this act; authorizing the commission, a state attorney, the statewide prosecutor, or the Attorney General to seek an injunction restraining any further violations of this act; amending s. 16.71, F.S.; prohibiting the Governor from soliciting or requesting certain information from a person who holds a license

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to conduct fantasy sports contests; amending s. 16.712, F.S.; conforming provisions to changes made by the act; amending s. 16.713, F.S.; revising prohibitions relating to appointment to and employment with the commission to include prohibitions relating to fantasy sports contests licenses; amending s. 16.715, F.S.; revising prohibitions relating to former commissioners and employees of the commission to include prohibitions relating to fantasy sports contests licenses; amending s. 849.142, F.S.; providing that specified provisions do not apply to participation in or the conduct of fantasy sports contests; providing an effective date.

By Senator Hutson

7-00750E-24 20241568__

A bill to be entitled

An act relating to the Fantasy Sports Contest Amusement Act; creating s. 546.11, F.S.; providing a short title; creating s. 546.12, F.S.; providing legislative findings and intent; creating s. 546.13, F.S.; defining terms; creating s. 546.14, F.S.; requiring the Florida Gaming Control Commission to enforce and administer the act; authorizing the commission to take certain actions; requiring the commission to revoke a contest operator’s license under certain circumstances; requiring the commission to adopt rules; creating s. 546.15, F.S.; providing application requirements for fantasy sports contest operator licenses; providing that specified persons or entities are not eligible for licensure under certain circumstances; defining the term “convicted”; specifying that a contest operator license is automatically suspended under certain circumstances; providing an exception; requiring contest operators to report certain changes in ownership or interest; creating s. 546.16, F.S.; requiring a contest operator to implement specified consumer protection procedures; defining the term “relative”; requiring a contest operator to annually contract with a third party to perform an independent audit; requiring a contest operator to submit the audit results to the commission within a certain timeframe; requiring a contest operator to use data sources that meet specified requirements; creating s. 546.17, F.S.; requiring

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

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contest operators to keep and maintain certain records for a specified period; providing a requirement for such records; requiring that such records be available for audit and inspection; requiring the commission to adopt rules; creating s. 546.18, F.S.; providing a civil penalty; providing applicability; exempting fantasy sports contests from certain provisions in ch. 849, F.S.; amending s. 16.71, F.S.; prohibiting the Governor from soliciting or requesting certain information from a person who holds a license to conduct fantasy sports contests; amending s. 16.712, F.S.; conforming provisions to changes made by the act; amending s. 16.713, F.S.; revising prohibitions relating to appointment to and employment with the commission to include prohibitions relating to fantasy sports contests licenses; amending s. 16.715, F.S.; revising prohibitions relating to former commissioners and employees of the commission to include prohibitions relating to fantasy sports contests licenses; amending s. 849.142, F.S.; providing that specified provisions do not apply to participation in or the conduct of fantasy sports contests; providing an effective date.

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

Section 1. Section 546.11, Florida Statutes, is created to read:

546.11 Short title.—Sections 546.11-546.18 may be cited as

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

the “Fantasy Sports Contest Amusement Act.”

Section 2. Section 546.12, Florida Statutes, is created to read:

546.12 Legislative intent; findings.—It is the intent of the Legislature to ensure public confidence in the integrity of fantasy sports contests and contest operators. This act is designed to regulate the contest operators and individuals who participate in such contests and to enact consumer protections related to fantasy sports contests. Furthermore, the Legislature finds that fantasy sports contests, as that term is defined in s. 546.13, involve the skill of contest participants.

Section 3. Section 546.13, Florida Statutes, is created to read:

546.13 Definitions.—As used in ss. 546.11-546.18, the term:

(1) “Act” means the Fantasy Sports Contest Amusement Act, ss. 546.11-546.18.

(2) “Commission” means the Florida Gaming Control Commission.

(3) “Confidential information” means information related to the playing of fantasy sports contests by contest participants which is obtained solely as a result of a person’s employment with, or work as an agent of, a contest operator.

(4) “Contest operator” means a person or an entity that offers fantasy sports contests for a cash prize to members of the public, but does not include a noncommercial contest operator in this state.

(5) “Contest participant” means a person who pays an entry fee for the ability to participate in a fantasy or simulation sports game or contest offered by a contest operator or

noncommercial contest operator.

(6) “Entry fee” means the cash or cash equivalent amount that a person is required to pay to a contest operator or noncommercial contest operator to participate in a fantasy sports contest.

(7) “Fantasy sports contest” means a fantasy or simulation sports game or contest offered by a contest operator or a noncommercial contest operator in which a contest participant manages a fantasy or simulation sports team composed of athletes from a professional sports organization and which meets each of the following requirements:

(a) All prizes and awards offered to winning contest participants are established and made known to the contest participants in advance of the game or contest, and their value is not determined by the number of contest participants or the amount of any fees paid by those contest participants.

(b) All winning outcomes reflect the relative knowledge and skill of the contest participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events.

(c) No winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such teams; solely on any single performance of an individual athlete or player in a single actual event; on a pari-mutuel event, as the term “pari-mutuel” is defined in s. 550.002; on a game of poker or other card game; or on the performances of participants in collegiate, high school, or youth sporting events.

(d) No casino graphics, themes, or titles, including, but not limited to, depictions of slot machine-style symbols, cards, dice, craps, roulette, or lotto, are displayed or depicted.

(8) “Noncommercial contest operator” means a natural person who organizes and conducts a fantasy or simulation sports game in which contest participants are charged entry fees for the right to participate; entry fees are collected, maintained, and distributed by the same natural person; the total entry fees collected, maintained, and distributed by such natural person do not exceed $1,500 per season or a total of $10,000 per calendar year; and all entry fees are returned to the contest participants in the form of prizes.

Section 4. Section 546.14, Florida Statutes, is created to read:

546.14 Enforcement and administration; rulemaking.—

(1) The commission shall enforce and administer this act.

(2) The commission may:

(a) Conduct investigations and monitor the operation and play of fantasy sports contests.

(b) Review the books, accounts, and records of any current or former contest operator.

(c) Deny, suspend, or revoke any license under this act for any violation of state law or rule.

(d) Take testimony, issue summonses and subpoenas for any witness, and issue subpoenas duces tecum in connection with any matter within its jurisdiction.

(e) Monitor and ensure the proper collection and safeguarding of entry fees and the payment of contest prizes in accordance with consumer protection procedures enacted pursuant

to s. 546.16.

(f) Investigate any licensed or unlicensed person or entity when such person or entity is advertising as offering or providing, or is engaged in conducting, a fantasy sports contest that requires licensure under this act or when a contest operator or noncommercial contest operator is engaged in activities that do not comply with or are prohibited by this act. The commission may issue an order to such licensed or unlicensed person or entity or contest operator or noncommercial contest operator to cease and desist the further conduct of such activities, may seek an injunction, or may take other appropriate action to enforce this act.

(3) The commission must revoke a contest operator’s license if the contest operator offers fantasy sports contests that violate s. 546.13(7)(c).

(4) The commission shall adopt rules to implement and administer this act.

Section 5. Section 546.15, Florida Statutes, is created to read:

546.15 Licensing; renewal.—

(1) A contest operator must be licensed by the commission to conduct fantasy sports contests within this state. Licenses are effective for 1 year after issuance and must be renewed annually.

(2) The license application must include:

(a) The full name of the applicant.

(b) If the applicant is a corporation, the name of the state in which the applicant is incorporated and the names and addresses of the officers, directors, and shareholders who hold

15 percent or more equity.

(c) If the applicant is a business entity other than a corporation, the names and addresses of each principal, partner, or shareholder who holds 15 percent or more equity, and any person who individually or in concert with a relative beneficially owns or controls, or has the power to vote or cause the vote of, 15 percent or more equity. For the purposes of this act, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(d) The names and addresses of the ultimate equitable owners of the corporation or other business entity, if different from those provided under paragraph (b) or paragraph (c), unless the securities of the corporation or entity are registered pursuant to s. 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and either:

1. The corporation or entity files with the United States Securities and Exchange Commission the reports required by s. 13 of that act; or

2. The securities of the corporation or entity are regularly traded on an established securities market in the United States.

(e) The estimated number of fantasy sports contests to be conducted by the applicant annually.

(f) A statement of the assets and liabilities of the applicant.

(g) If required by the commission, the names and addresses of the officers and directors of any creditor of the applicant and of stockholders who hold more than 10 percent of the stock of the creditor.

(h) For each individual listed in the application pursuant to paragraph (a), paragraph (b), paragraph (c), or paragraph (d), a full set of fingerprints, to be submitted to the commission or to a vendor, an entity, or an agency authorized under s. 943.053(13).

1. The commission, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

2. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph must be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, must be enrolled in the Federal Bureau of Investigation’s national retained print arrest notification program. The Department of Law Enforcement shall report to the commission any arrest record identified.

(i) For each foreign national, such documents as are necessary to allow the commission to conduct criminal history records checks in the individual’s home country. The applicant must pay the full cost of processing fingerprints and required documentation.

(3) The application for renewal must contain all revisions to the information submitted in the prior year’s application

which are necessary to maintain such information as both accurate and current.

(4) The applicant for renewal must attest that any revisions do not affect the applicant’s qualifications for license renewal.

(5) Upon determination by the commission that the application for renewal is complete and qualifications have been met, including payment of the renewal fee, the fantasy sports contests license must be renewed annually.

(6) A person or an entity is not eligible for licensure as a contest operator or for licensure renewal if an individual required to be listed pursuant to paragraph (5)(a), paragraph (5)(b), paragraph (5)(c), or paragraph (5)(d) is determined by the commission, after investigation, not to be of good moral character or is found to have been convicted of a felony in this state, any offense in another jurisdiction which would be considered a felony if committed in this state, or a felony under the laws of the United States. As used in this subsection, the term “convicted” means having been found guilty, with or without adjudication of guilt, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

(7) The license of a contest operator is automatically suspended upon entry of a final order imposing an administrative fine against the contest operator, until the administrative fine is paid, if 30 calendar days have elapsed since the entry of the final order. The license of a contest operator may not be renewed and an application for licensure as a contest operator may not be approved if the contest operator or the applicant for licensure as a contest operator is liable for an outstanding

administrative fine imposed under this act. Notwithstanding this subsection, a contest operator’s license may not be suspended and an application for licensure as a contest operator may not be denied if the contest operator or the applicant has an appeal from a final order pending in any appellate court.

(8) Changes in ownership of or interest in a fantasy sports contests license of 5 percent or more of the stock or other evidence of ownership or equity in the contest operator must be approved by the commission before such change, unless the owner is an existing owner of that license who was previously approved by the commission. Changes in ownership of or interest in a fantasy sports contests license of less than 5 percent must be reported to the commission within 20 days after the change. The commission may then conduct an investigation to ensure that the license is properly updated to show the change in ownership or interest.

Section 6. Section 546.16, Florida Statutes, is created to read:

546.16 Consumer protection.—

(1) A contest operator shall implement procedures for fantasy sports contests which:

(a) Prevent its employees, their relatives, or persons living in the same household as the employees from competing in a fantasy sports contest in which a cash prize is awarded. However, a contest operator may offer to its employees fantasy sports contests in which the employees are the sole participants. For the purposes of this paragraph, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) Prohibit the contest operator from being a contest participant in a fantasy sports contest that the contest operator offers.

(c) Prevent its employees or agents from sharing with a third party confidential information that could affect fantasy sports contest play, until the information has been made publicly available.

(d) Verify that contest participants are 21 years of age or older.

(e) Restrict an individual who is a player, a game official, or other participant in a real-world game or competition from participating in a fantasy sports contest that is determined, in whole or in part, on the performance of that individual, the individual's real-world team, or the accumulated statistical results of the sport or competition in which he or she is a player, game official, or other participant.

(f) Allow individuals to restrict or prevent their own access to fantasy sports contests and take reasonable steps to prevent those individuals from entering a fantasy sports contest.

(g) Limit the number of entries a single contest participant may submit to each fantasy sports contest and take reasonable steps to prevent participants from submitting more than the allowable number of entries.

(h) Segregate contest participants' funds from operational

funds or maintain a reserve in the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof in the total amount of deposits in contest participants' accounts for the benefit and protection of authorized contest participants' funds held in fantasy sports contest accounts.

(2)(a) A contest operator shall annually contract with a third party to perform an independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with this act. The contest operator shall submit the results of the independent audit to the commission no later than 90 days after the end of each annual licensing period.

(b) Any data source and the corresponding data to determine the results of all fantasy sports contests offered by contest operators, other than noncommercial contest operators, must be complete, accurate, reliable, and appropriate to settle the outcome of the fantasy sports contests for which they are used.

Section 7. Section 546.17, Florida Statutes, is created to read:

546.17 Records and reports.—Each contest operator shall keep and maintain daily records of its operations and shall maintain such records for at least 3 years. The records must sufficiently detail all financial transactions required to determine compliance with this act and must be available for audit and inspection by the commission or other law enforcement agencies during the contest operator's regular business hours. The commission shall adopt rules to implement this section.

Section 8. Section 546.18, Florida Statutes, is created to read:

546.18 Penalties; applicability; exemption.—

(1)(a) A contest operator, or an employee or agent thereof, that violates this act is subject to an administrative fine not to exceed $5,000 for each violation and not to exceed $100,000 in the aggregate. All fines imposed and collected under this subsection must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund. An action to recover such penalties may be brought by the commission or the Department of Legal Affairs in the name and on behalf of the state.

(b) The penalty provisions established in this subsection do not apply to violations committed by a contest operator which occurred before the issuance of a license under this act if the contest operator applies for a license within 90 days after the date the commission begins accepting applications and receives a license within 240 days after such date.

(2) Fantasy sports contests conducted by a contest operator or noncommercial contest operator in accordance with this act are not subject to s. 849.01, s. 849.08, s. 849.09, s. 849.11, s. 849.14, or s. 849.25.

Section 9. Paragraph (b) of subsection (3) of section 16.71, Florida Statutes, is amended to read:

16.71 Florida Gaming Control Commission; creation; meetings; membership.—

(3) REQUIREMENTS FOR APPOINTMENT; PROHIBITIONS.—

(b) The Governor may not solicit or request any nominations, recommendations, or communications about potential

candidates for appointment to the commission from:

1. Any person that holds a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; an officer, official, or employee of such permitholder or licensee; or an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Any officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or an ultimate equitable owner, as defined in s. 550.002(37), of such entity; or

3. Any registered lobbyist for the executive or legislative branch who represents any person or entity identified in subparagraph 1. or subparagraph 2.

Section 10. Paragraph (i) of subsection (1) of section 16.712, Florida Statutes, is amended to read:

16.712 Florida Gaming Control Commission authorizations, duties, and responsibilities.—

(1) The commission shall do all of the following:

(i) Receive and review violations reported by a state or local law enforcement agency, the Department of Law Enforcement, the Department of Legal Affairs, the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of the Lottery, the Seminole Tribe of Florida, or any person licensed under chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849 and determine whether such violation is appropriate for referral to the Office of Statewide Prosecution.

Section 11. Paragraph (d) of subsection (1) and paragraph (a) of subsection (2) of section 16.713, Florida Statutes, are amended to read:

16.713 Florida Gaming Control Commission; appointment and employment restrictions.—

(1) PERSONS INELIGIBLE FOR APPOINTMENT TO THE COMMISSION.—The following persons are ineligible for appointment to the commission:

(d) A person who has had a license or permit issued under chapter 546, chapter 550, chapter 551, or chapter 849 or a gaming license issued by any other jurisdiction denied, suspended, or revoked.

(2) PROHIBITIONS FOR EMPLOYEES AND COMMISSIONERS; PERSONS INELIGIBLE FOR APPOINTMENT TO AND EMPLOYMENT WITH THE COMMISSION.—

(a) A person may not, for the 2 years immediately preceding the date of appointment to or employment with the commission and while appointed to or employed with the commission:

1. Hold a permit or license issued under chapter 550 or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Be an officer, official, employee, or other person with duties or responsibilities relating to a gaming operation owned by an Indian tribe that has a valid and active compact with the state; be a contractor or subcontractor of such tribe or an entity employed, licensed, or contracted by such tribe; or be an

ultimate equitable owner, as defined in s. 550.002(37), of such entity;

3. Be a registered lobbyist for the executive or legislative branch, except while a commissioner or employee of the commission when officially representing the commission or unless the person registered as a lobbyist for the executive or legislative branch while employed by a state agency as defined in s. 110.107 during the normal course of his or her employment with such agency and he or she has not lobbied on behalf of any entity other than a state agency during the 2 years immediately preceding the date of his or her appointment to or employment with the commission; or

4. Be a bingo game operator or an employee of a bingo game operator.

For the purposes of this subsection, the term “relative” means a spouse, father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Section 12. Paragraphs (b) and (c) of subsection (2) of section 16.715, Florida Statutes, are amended to read:

16.715 Florida Gaming Control Commission standards of conduct; ex parte communications.—

(2) FORMER COMMISSIONERS AND EMPLOYEES.—

(b) A commissioner may not, for the 2 years immediately following the date of resignation or termination from the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee;

2. Accept employment by or compensation from a business entity that, directly or indirectly, owns or controls a person regulated by the commission; from a person regulated by the commission; from a business entity which, directly or indirectly, is an affiliate or subsidiary of a person regulated by the commission; or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member’s resignation or termination of service on the commission; or

3. Be a bingo game operator or an employee of a bingo game operator.

(c) A person employed by the commission may not, for the 2 years immediately following the date of termination or resignation from employment with the commission:

1. Hold a permit or license issued under chapter 550, or a license issued under chapter 546, chapter 551, or chapter 849; be an officer, official, or employee of such permitholder or licensee; or be an ultimate equitable owner, as defined in s. 550.002(37), of such permitholder or licensee; or

2. Be a bingo game operator or an employee of a bingo game operator.

Section 13. Subsection (7) is added to section 849.142, Florida Statutes, to read:

849.142 Exempted activities.—Sections 849.01, 849.08,

849.09, 849.11, 849.14, and 849.25 do not apply to participation in or the conduct of any of the following activities:

(7) Fantasy sports contests conducted pursuant to chapter 546.

Section 14. This act shall take effect July 1, 2024.

The Florida Senate

APPEARANCE RECORD

2/7/24
Meeting Date

1568
Bill Number or Topic

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

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Ron Book

Phone 850-224 3427

Address 104 West Jefferson
Street

Email ron@RLBookPA.com

TLH 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:
"Underdog"

☐ 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. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Committee on Fiscal Policy **Judge:**

Started: 2/7/2024 3:34:04 PM
Ends: 2/7/2024 6:47:16 PM Length: 03:13:13

3:34:06 PM	Chair Hutson calls meeting to order
3:34:12 PM	Roll call
3:34:21 PM	Quorum is present
3:34:57 PM	Pledge of Allegiance
3:35:29 PM	Tab 7, SB 1142 on Occupational Licensing by Senator Hooper
3:35:51 PM	Senator Hooper explains the bill
3:36:43 PM	Amendment #918130
3:36:51 PM	Senator Hooper explains the amendment
3:37:38 PM	Chair Hutson reports amendment
3:37:54 PM	Senator Hooper waives close
3:38:03 PM	Roll call
3:38:44 PM	Tab 2, SB 362 on Medical Treatment Under Workers' Compensation Law by Senator Bradley
3:39:08 PM	Senator Bradley explains the bill
3:39:32 PM	Amendment #142360
3:39:44 PM	Senator Bradley explains the amendment
3:39:59 PM	Chair Hutson reports the amendment
3:40:12 PM	Chair Hutson recognizes public appearance on the bill
3:40:33 PM	Richard Chait, Florida Workers' Advocates
3:43:12 PM	Dr. Jason Oberstee, Florida Orthopedic Society
3:46:28 PM	Senator Bradley closes on the bill
3:46:51 PM	Roll call
3:47:43 PM	Tab 3, SB 366 on the Gas Safety Law of 1967 by Senator Yarborough
3:48:09 PM	Senator Yarborough explains the bill
3:49:16 PM	Questions:
3:49:18 PM	Senator Thompson
3:49:31 PM	Senator Yarborough
3:49:47 PM	Senator Thompson
3:49:58 PM	Senator Yarborough
3:50:41 PM	Chair Hutson recognizes public appearance
3:50:56 PM	Senator Yarborough closes on the bill
3:51:08 PM	Roll call
3:51:45 PM	Tab 5, SB 938 on Dentistry by Senator Yarborough
3:52:01 PM	Senator Yarborough explains the bill
3:53:06 PM	Chair Hutson recognizes public appearance
3:53:14 PM	Senator Yarborough waives close on the bill
3:53:24 PM	Roll call
3:53:56 PM	Tab 1, CS/SB 260 on Refusal to submit to Breath, Urine, or Blood Test by Senator DiCeglie
3:54:24 PM	Senator DiCeglie explains the bill
3:54:43 PM	Questions:
3:54:45 PM	Senator Thompson
3:55:28 PM	Senator DiCeglie
3:55:46 PM	Senator Thompson
3:55:55 PM	Senator DiCeglie
3:56:41 PM	Senator Thompson
3:56:46 PM	Senator DiCeglie
3:57:22 PM	Senator Thompson
3:57:30 PM	Chair Hutson recognizes public appearance
3:57:42 PM	Kristen Allen, Mothers Against Drunk Driving
3:59:31 PM	Aaron Wayt, FL. Association of Criminal Defense Lawyers
4:04:17 PM	Kelly Paulsen, Responsibility.org
4:05:56 PM	Officer Edward Campbell, police officer
4:09:08 PM	Debate:

4:09:10 PM	Senator Thompson
4:10:16 PM	Senator DiCeglie closes on the bill
4:11:36 PM	Roll call
4:12:15 PM	Tab 9, CS/SB 1350 on Salvage by Senator DiCeglie
4:12:27 PM	Senator DiCeglie explains the bill
4:13:07 PM	Chair Hutson recognizes public appearance
4:13:15 PM	Senator DiCeglie waives close
4:13:20 PM	Roll call
4:13:51 PM	Tab 6, SB 998 on Liquefied Petroleum Gas by Senator Collins
4:14:11 PM	Amendment #670796
4:14:22 PM	Senator Collins explains the bill and amendment
4:15:56 PM	Chair Hutson reports the amendment
4:16:02 PM	Back on the bill as amended
4:16:14 PM	Chair Hutson recognizes public appearance
4:16:28 PM	Senator Collins closes on the bill
4:16:39 PM	Roll call
4:17:22 PM	Tab 8, SB 1276 on Litigation Financing by Senator Collins
4:17:40 PM	Senator Collins explains the bill
4:19:20 PM	Amendment #658474
4:19:43 PM	Senator Collins explains the amendment
4:21:26 PM	Chair Hutson recognizes public appearance
4:21:34 PM	Brandon Blake, Florida Justice Reform Institute
4:22:49 PM	Chair Hutson reports amendment
4:22:59 PM	Questions:
4:23:03 PM	Senator Osgood
4:23:42 PM	Senator Collins
4:23:54 PM	Senator Osgood
4:24:55 PM	Senator Collins
4:25:36 PM	Senator DiCeglie
4:26:24 PM	Senator Collins
4:28:16 PM	Senator Jones
4:28:35 PM	Senator Collins
4:29:47 PM	Senator Jones
4:29:59 PM	Senator Collins
4:30:32 PM	Senator Jones
4:30:56 PM	Senator Collins
4:32:03 PM	Senator Jones
4:32:09 PM	Senator Collins
4:32:15 PM	Senator Jones
4:32:18 PM	Senator Collins
4:32:44 PM	Senator Jones
4:32:47 PM	Senator Collins
4:32:52 PM	Senator Jones
4:32:55 PM	Senator Collins
4:32:59 PM	Senator Jones
4:33:08 PM	Senator Collins
4:33:15 PM	Senator Jones
4:33:27 PM	Senator Torres
4:34:02 PM	Senator Collins
4:34:31 PM	Chair Hutson recognizes public appearances
4:34:40 PM	Tim Nunguesser, WFIB
4:35:52 PM	Senator Thompson
4:36:01 PM	Tim Nunguesser
4:37:09 PM	George Feijoo, US Chamber Institute for Legal Reform
4:40:36 PM	Senator Jones
4:41:06 PM	George Feijoo
4:41:23 PM	Senator Jones
4:41:28 PM	George Feijoo
4:42:46 PM	Senator Jones
4:42:57 PM	George Feijoo
4:44:21 PM	Senator Jones
4:44:27 PM	George Feijoo

4:44:59 PM	Senator Thompson
4:45:09 PM	George Feijoo
4:47:43 PM	Senator Thompson
4:47:59 PM	George Feijoo
4:48:12 PM	Senator Thompson
4:48:29 PM	George Feijoo
4:49:23 PM	Senator Thompson
4:49:30 PM	George Feijoo
4:50:35 PM	Bill Cotterall, Florida Justice Association
4:56:24 PM	Senator Torres
4:56:39 PM	Bill Cotterall
4:58:56 PM	Senator Torres
4:58:59 PM	Senator Jones
4:59:19 PM	Bill Cotterall
4:59:37 PM	Brandon Blake, Florida Justice Reform Institute, Bolin Law Group
5:06:10 PM	Senator Jones
5:06:22 PM	Brandon Blake
5:06:42 PM	Senator Jones
5:06:44 PM	Brandon Blake
5:07:30 PM	Senator Jones
5:07:36 PM	Chair Hutson
5:07:52 PM	Maryann Furman
5:10:17 PM	Senator Jones
5:11:32 PM	Senator Collins closes on the bill
5:13:54 PM	Roll call
5:14:36 PM	Tab 4, CS/SB 632 on Taking of Bears by Senator Simon
5:14:47 PM	Amendment #385350
5:14:59 PM	Senator Simon explains the bill and amendment
5:15:39 PM	Questions:
5:15:42 PM	Senator Jones
5:15:55 PM	Senator Simon
5:16:14 PM	Senator Jones
5:16:25 PM	Senator Simon
5:16:36 PM	Senator Jones
5:16:45 PM	Senator Simon
5:16:47 PM	Senator Jones
5:16:52 PM	Senator Simon
5:16:54 PM	Senator Jones
5:16:57 PM	Senator Trumbull
5:17:35 PM	Senator Simon
5:18:08 PM	Senator Thompson
5:18:25 PM	Senator Simon
5:18:59 PM	Senator Thompson
5:19:07 PM	Senator Simon
5:19:24 PM	Senator Thompson
5:19:35 PM	Senator Simon
5:19:49 PM	Senator Thompson
5:20:11 PM	Senator Simon
5:20:40 PM	Senator Torres
5:20:55 PM	Senator Simon
5:21:17 PM	Senator Berman
5:21:37 PM	Senator Simon
5:22:25 PM	Senator Berman
5:23:04 PM	Chair Hutson recognizes public appearances:
5:23:51 PM	Tricia Matthews
5:25:02 PM	Chair Hutson reports the amendment
5:25:38 PM	Chair Hutson recognizes public appearances:
5:25:48 PM	Dana Stetson
5:27:13 PM	Chris Doolin
5:29:44 PM	Katrina Shadix
5:36:52 PM	Ruth Chandler
5:43:19 PM	Darbie Butler, Sheriff of Dixie County

5:48:00 PM	Chair Hutson
5:48:09 PM	Darbie Butler
5:51:38 PM	Matthew Glocholske, NIA
5:53:39 PM	Chair Hutson moves to extend meeting
5:54:11 PM	Kate MacFall, Humane Society of the United States
5:58:22 PM	Lesley Blackhere
6:01:23 PM	Ashley Landwerlen
6:05:59 PM	Lane Stephens
6:09:07 PM	Travis Moore, Defenders of Wildlife and Animal Legal Defense Fund
6:11:19 PM	David Cullen, Sierra Club Florida
6:14:33 PM	Ian Hvozdovich
6:16:32 PM	Savannah Sherman
6:18:40 PM	Karen Johnson
6:21:04 PM	Debate:
6:21:31 PM	Senator Stewart
6:25:11 PM	Senator Torres
6:28:46 PM	Senator Boyd
6:30:13 PM	Senator Mayfield
6:31:27 PM	Senator Berman
6:32:21 PM	Senator Rodriguez
6:33:12 PM	Senator Garcia
6:35:03 PM	Senator Simon closes on the bill
6:40:05 PM	Roll call
6:40:52 PM	Chair Hutson passes the gavel to vice chair Stewart
6:41:02 PM	Tab 11, SB 1568 Fantasy Sports Contest Amusement Act by Senator Hutson
6:41:15 PM	Chair Hutson explains the bill
6:41:29 PM	Amendment #1277856
6:41:39 PM	Senator Hutson explains the amendment
6:42:37 PM	Vice Chair Stewart recognizes public appearance
6:43:00 PM	Senator Hutson waives close on the bill
6:43:09 PM	Roll call
6:43:20 PM	Tab 10, CS/SB 1566 on Fees/Fantasy Sports Contest Operator by Senator Hutson
6:44:00 PM	Senator Hutson explains the bill
6:44:07 PM	Amendment #902220
6:44:23 PM	Senator Hutson explains the amendment
6:44:51 PM	Senator Hutson waives close on the amendment
6:45:00 PM	Vice Chair Stewart reports the amendment
6:45:13 PM	Senator Hutson waives close on the bill
6:45:31 PM	Roll call
6:45:34 PM	Vice Chair Stewart passes the gavel back to Chair Hutson
6:46:21 PM	Senator Jones moves to be recorded as voting after
6:46:27 PM	Senator Albritton moves to be recorded as voting after
6:46:42 PM	Senator Garcia moves to be recorded as voting after
6:46:53 PM	Senator Simon moves to be recorded as voting after
6:47:00 PM	Senator Boyd moves to adjourn
6:47:06 PM	Meeting adjourned